

CENTER CITY PUBLIC CHARTER SCHOOLS, INC.**NOTICE OF REQUEST FOR PROPOSALS**

Center City Public Charter Schools, Inc. is soliciting proposals from qualified vendors for the following products and services:

- (1) Student assessment system and materials for interim testing throughout the school year.
- (2) Student data and records management, including electronic management of enrollment applications, as well as grade reports, daily attendance and other data.
- (3) Special education services, including speech therapy, occupational therapy, counseling services and general compliance support.
- (4) Employer retirement plan management & administration, including some advisory services to employees wishing to save for retirement.
- (5) Human resource services including payroll management, benefits administration and compliance with applicable state and federal legislation.
- (6) Accounting services for central office, including month-end close, bank reconciliations and general ledger oversight.
- (7) Accounting software implementation and licensing.
- (8) Employer funded health insurance plan(s) for employees, with applicable related coverage like vision and dental.
- (9) Information technology strategy support, procurement management, maintenance and annual service.

To obtain copies of full RFP's, please visit our web-site: www.centercitypcs.org The full RFP's contain guidelines for submission, applicable qualifications and deadlines. Contact person:

Carmen Joya

(202) 536-5519

GOVERNMENT OF THE DISTRICT OF COLUMBIA**Office of the Chief Financial Officer****Office of Finance and Treasury****1275 K Street, NW Suite 600****Washington, DC 20005**

Effectively immediately this notice constitutes written conformation of persons authorized to enter into investment transactions and to make transfers from investment accounts on behalf of the Government of the District of Columbia.

Lasana K. Mack

Deputy Chief Financial Officer and Treasurer

Office of Finance and Treasury

Emma Chappell

Associate Treasurer

Office of Finance and Treasury

Raj Srinath

Associate Treasurer

Office of Finance and Treasury

Elliott Kindred

Director, Unclaimed Property

Office of Finance and Treasury

John S. Henry

Cash and Investment Manager

Office of Finance and Treasury

Gloria Vines

Banking Relations Manager

Office of Finance and Treasury

Michael A. Hawkins

Financial Manager

Office of Finance and Treasury

Bettina Bingham

Financial Analyst

Office of Finance and Treasury

This notice supersedes all prior lists. Under no circumstances are investment transactions to be executed by any other employee or official of the Government of the District of Columbia.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BOARD FOR
THE CONDEMNATION OF INSANITARY BUILDINGS

NOTICE OF PUBLIC INTEREST

The Director of the Department of Consumer and Regulatory Affairs, in accordance with section 742 of the District of Columbia Home Rule Act of 1973, as amended, D.C. Code section 1-1504 (1999 Repl.), hereby gives notice that the Board for the Condemnation of Insanitary Buildings' (BCIB) regular meetings will be held on the dates listed below for calendar year 2008, (the second and fourth Wednesday of each month). The meetings will begin at 10:00 a.m. in Room 7100 of 941 North Capitol Street, NW, Washington, D.C. 20002. These regularly scheduled meetings of the BCIB are open to the public. Please call the Building Condemnation Division on (202) 535-1859 for further information or for changes in this schedule.

The BCIB is charged with examining the sanitary condition of all buildings in the District of Columbia, determining which buildings are in such insanitary condition as to endanger the health or lives of its occupants or persons living in the vicinity, and issuing orders of condemnation requiring the owners to remedy the insanitary condition. Should the owner fail to remedy the cited conditions, the BCIB shall cause the building to be made habitable, safe and sanitary or razed and removed. The cost of work performed by the District of Columbia Government shall be assessed to the property.

Calendar Year 2008 Meeting Dates

May 14th	September 10th
May 28th	September 24th
June 11th	October 8th
June 25th	October 22nd
July 9th	November 12th
July 23rd	November 26th
August 13 th	December 10th
August 27th	December 24th

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GOVERNMENT OF THE DISTRICT OF COLUMBIA**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING****NOTICE OF PUBLIC INTEREST
LIST OF CONDEMNED BUILDINGS**

Find enclosed a list of buildings against which condemnation proceedings have been instituted. This list is current as of May 1, 2008. The following paragraphs will give some insight into why these buildings were condemned and the meaning of condemnation for insanitary reasons.

Each listed property has been condemned by the District of Columbia Government's Board for the Condemnation of Insanitary Buildings (BCIB). The authority for this board is Title 6, Chapter 9, of the District of Columbia Code, 2001 Edition. The BCIB has examined each property and has registered with the record owner (via condemnation) a strong disapproval of the condition in which the property is being maintained. The BCIB has recorded at the Office of the Recorder of Deeds an Order of Condemnation against each property for the benefit of purchasers and the real estate industry.

These properties were condemned because they were found to be in such an insanitary condition as to endanger the health and lives of persons living in or in the vicinity of the property. The corrective action necessary to remove the condemnation order could take the form of demolition and removal of the building by the owner or the BCIB. However, most buildings are rendered sanitary, i.e., the insanitary conditions are corrected by the owner or the BCIB.

The administration of the condemnation program does not take title to property. The title to each property remains with the owner. Accordingly, inquiries for the sale or value of these properties should be directed to the owner of record. Inquiries regarding the owner or owner's address should be directed to the Office of Tax and Revenue, Customer Service, Office of Real Property Tax (202) 727-4829, 941 North Capitol Street, NE, 1st floor.

For further assistance, contact the Support Staff of the BCIB on 442-4486.

THE BOARD FOR THE CONDEMNATION OF INSANITARY BUILDING

Enclosure:

**BOARD FOR
THE CONDEMNATION OF INSANITARY BUILDINGS**

LIST OF CONDEMNED BUILDINGS

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest</u>			
6412 Barnaby Street	0091	2352	4
1442 Belmont Street	0192	2660	1
1472 Belmont Street	0814	2660	1
4334 Bladgen Avenue	0800	2659	4
7100 Blair Road	0800	3189	4
7220 Blair Road	0812	3176	4
41 Bryant Street	0099	3127	5
41 Bryant Street-Rear	0099	3127	5
811 Butternut Street	0006	2967	4
1859 California Street	0018	5127	1
1126 Columbia Road	0056	2853	1
5109 Connecticut Avenue	0048	1989	3
5109 Connecticut Avenue-Rear	0048	1989	3
5233 Connecticut Avenue	0041	1874	3
321 Elm Street	0082	1111	1
1212 Euclid Street	0077	2865	1
410 Florida Avenue	0040	0507	5
1461 Florida Avenue	0147	2660	1
3003 Georgia Avenue	0111	3052	1
3218 Georgia Avenue	0879	2892	1
3919 Georgia Avenue	0035	3027	4
4419 Georgia Avenue	0815	3020	4
4607 Georgia Avenue	0016	3015	4
6925 Georgia Avenue	0811	2967	4
723 Girard Street	0214	2886	1
1327 Girard Street	0803	2855	1
1710 Irving Street	0001	2771	4
1301 Kalmia Road	0001	2771	4
806 Kennedy Street	0812	2994	4
508 M Street	0071	0482	2
1002 M Street	0056	0341	2
223 Missouri Avenue	0043	3331	4
1824 Monroe Street	0813	2614	1
212 Morgan Street	0083	0555	6

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest (Con't)</u>			
216 Morgan Street	0018	0555	6
3642 New Hampshire Ave.-Rear	0032	2898	1
447 Newton Place	0027	3035	1
1443 Newton Street	0430	2677	1
1424 North Capitol Street	0010	0616	5
1426 North Capitol Street	0836	0616	5
1428 North Capitol Street	0835	0616	5
405 O Street	0802	0511	2
509 O Street	0479	2001/2002	2
1344 Otis Place	0118	2835	1
1346 Otis Place	0117	2835	1
1346 Otis Place-Rear	0117	2835	1
1350 Otis Place	0115	2835	1
340 Oakdale Place	3085	0051	1
310 P Street	0037	553W	5
605 P Street	0154	0445	2
1433 Parkwood Place	0064	2688	1
3626 Prospect Street	0061	1202	2
1427 Q Street	0009	0208	2
729 Quincy Street	0822	3131	4
53 S Street	0039	3106	5
1605 S Street	0019	0177	2
423 Shepherd Street	0038	3238	4
423 Shepherd Street-Rear	0038	3238	4
1237 Shepherd Street	0014	2908	4
5136 Sherrier Place	0826	1415	3
1754 Swann Street	0130	0152	2
321 T Street	0065	3089	1
901 U Street	0100	0360	2
613 Upshur Street	0072	3226	4
613 Upshur Street-Rear	0072	3226	4
1321 V Street	0182	0235	1
1943 Vermont Avenue	0011	0361	1
1943 Vermont Avenue-Rear	0011	0361	1
909 W Street	0066	0357	1
911 W Street	0067	0357	1
1202 3 rd Street	0837	0523	2
1506 3 rd Street	0818	0521	5

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northwest (Con't)</u>			
1859 3 rd Street	0810	3096	1
1922 3 rd Street-Rear	0010	3089	1
1209 4 th Street	0810	0523	6
1211 4 th Street	0502	2026	6
1314 5 th Street	0042	0480	2
1417 5 th Street	0054	0511	2
1425 5 th Street	0511	0817	2
1551 6 th Street(Carriage House)	0821	0478	2
2206 6 th Street	0033	3065	1
6838 6 th Street	0013	3169	4
5124 7 th Street	0110	3149	4
5232 7 th Street	0032	3150	4
5232 7 th Street-Rear	0032	3150	4
1512 8 th Street	0832	0397	2
1543 8 th Street	0046	0421	2
1905 8 th Street	0802	0416	1
1905 8 th Street -Rear	0802	0416	1
6216 8 th Street	2980	0031	4
1216 9 th Street	0906	0368	2
1218 9 th Street	0896	0368	2
1819 10 th Street	0212	0362	1
1819 10 th Street-Rear	0212	0362	1
2105-07 10 th Street	0802	0358	1
3571 10 th Street	0337	0809	1
1107 11 th Street	0066	0341	2
1521 11 th Street	0809	0337	1
3007 11 th Street	0099	2851	1
2226 13 th Street	0075	0234	1
3222 13 th Street	0034	2845	1
5113 13 th Street-Rear	0019	2929	4
2208 14 th Street	0030	0202	1
3405 14 th Street	0115	2836	1
3509 14 th Street	0053	2827S	1
4024 14 th Street	0053	2694	4
5209 14 th Street	0105	2804	4
2423 18 th Street	0093	2560	1
2617 31 st Street	0032	4553E	5

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Northeast</u>			
224 Adam Street	0031	3557	5
2027 Benning Road	0815	4515	7
5212 Cloud Street	0801	5235	7
4226 Dix Street	0017	5089	7
4226 Dix Street-Rear(North)	0017	5089	7
4226 Dix Street-Rear(South)	0017	5089	7
4403 Dix Street	0892	5803	7
4335 Douglas Street	0060	5115	7
4710 Eads Street	0011	5144	7
635 Emerson Street	0008	3788	5
2800 Evart Street	0009	4346	5
1369 Florida Avenue-Rear	0129	1026	6
4326 Gault Place	0130	5093	7
413 H Street	0812	0809	6
1309 H Street	0088	1027	6
1311 H Street	0089	1027	6
1264 Holbrook Terr.	0840	4055	5
311 I Street	0048	0776	6
1826 I Street	0032	4488	5
1830 I Street	0031	4488	5
5069 Just Street	0305	5176	7
303 K Street	0804	0775	6
1002 K Street	0020	0956	6
1692 Kramer Street	0241	4540	6
1308 L Street	0064	1047	6
1854 L Street	0806	4470	5
1249 Lawrence Street	0021	3930	5
5119 Lee Street	0038	5200	7
1310 Monroe Street	0010	3964	5
1310 Monroe Street-Rear	0010	3964	5
1414 Montello Avenue	0807	4059	5
1712 Montello Avenue	0029	4053	5
1712 Montello Avenue-Rear	0029	4053	5
5706 NHB Avenue	0010	5214	7
1243 Owen Place	0188	4060	5
22 P Street	0057	0668	5
24 P Street	0056	0668	5
21 T Street	0809	5235	5

LOT

SQUARE

WD

Northeast (Con't)

2511 Queens Chapel Road	4111E	0016	5
2621 Queens Chapel Road	0023	4213	5
115 Riggs Road	0085	3701	5
2925 South Dakota Avenue	0028	4339	5
21 T Street	0029	3510	5
19 U Street	0070	3509	5
215 Warren Street	0809	1033	6
2322 2 nd Street	0038	3540	5
2322 2 nd Street-Rear	0038	3540	5
915 3 rd Street	0801	0775	6
1111 3 rd Street	0773	0243	6
1811 3 rd Street	0007	3570	5
619 4 th Street	0092	0810	6
621 4 th Street	0093	0810	6
1020 4 th Street-Rear	0034	0774	6
3215 7 th Street	0010	3650	5
251 8 th Street	0064	0917	6
2250 13 th Street-Rear	0034	3942	5
704 16 th Street	0085	4509	6
3114 16 th Street	0041	4014	5
3300 18 th Street	0019	4143	5
4310 22 nd Street	0012	4232	5
2921 26 th Street	0029	4342	5
2924 26 th Street	0026	4287	5
1121 46 th Street	0070	5155	7
1123 46 th Street	0111	5155	7
1227 47 th Place	0039	5160	7
1055 48 th Place	0098	5153	7
717 50 th Street	0021	5179	7
730 51 st Street	0061	5197	7
808 51 st Street	0193	5177	7
945 52 nd Street	0803	5199	7
109 53 rd Street	0091	5243	7
220 56 th Street	0026	5249	7
338 58 th Street	0813	5254	7
421 61 st Street	0009	5260	7

<u>BUILDINGS CONDEMNED</u>	<u>LOT</u>	<u>SQUARE</u>	<u>WD</u>
<u>Southeast</u>			
1523 A Street	0816	1072	6
1751 A Street	0063	1097	6
1751 A Street-Rear	0063	1097	6
4427 A Street	0107	5350	7
5019 A Street	0005	5327	7
5019 A Street-Rear (Shed)	0005	5327	7
21 Atlantic Street	0051	6170	8
5010 Benning Road	0068	5340	7
3401 Brothers Place	0803	6006	8
5201 C Street	0009	5312	7
5100 Call Place	0016	5312	7
5100 Call Place-Rear(South)	0016	5312	7
612 E Street	0814	0876	6
1525 E Street	0087	1076	6
3326 Ely Place	0807	5444	6
647 G Street	0139	0878	6
651 G Street	0141	0878	6
1500 Galen Street	0048	5795	8
1239 Good Hope Road	0089	3033	8
1410 Good Hope Road	0024	5605	8
4324 Halley Terrace	0018	6214	8
2256 High Street-Rear East	0850	5799	8
1812-16R Independence Ave-Rear(East)	0095	1111	6
1812-16R Independence Ave-Rear(West)	0095	1111	6
2309 Irving Street	0010	5846	8
2839 Jasper Road	0917	5875	8
1220 Maple View Place	0811	5800	8
1303 Maple View Place	0892	5803	8
1311 Maple View Place	0883	5803	8
1354 Maple View Place	0922	5804	8
1909 MLK Jr. Avenue	0829	5770	8
1911 MLK Jr. Avenue	0829	5770	8
1913 MLK Jr. Avenue	0829	5770	8
2228 MLK Jr. Avenue	0810	5802	8
2234 MLK Jr. Avenue	0811	5802	8
2238 MLK Jr. Avenue	0978	5802	8
2629 MLK Jr. Avenue-East	0192	5867	8
2629 MLK Jr. Avenue-West	0192	5867	8
2666 MLK Jr. Avenue, East bldg	1014	5868	8

Southeast

1354 Penn. Avenue	0051	3565	8
643 Raleigh Place	0804	5954	8
1005 Savannah Street	0804	5938	8
1500 Savannah Street	0801	5912	8
1502 Savannah Street	0802	5912	8
1225 Sumner Road	0980	5865	8
1326 Valley Place	0849	5799	8
1333 Valley Place	0891	5801	8
821 Virginia Avenue	0006	0929	6
1242 W Street	0099	5782	8
104 Xenia Street	0037	6128N	8
535 9 th Street	0830	0926	6
535 9 th Street-Rear	0830	0926	6
742 13 th Street	0096	1045	6
321 18 th Street	0801	1100	6
1427 22 nd Street	0812	5564	8
1401 22 nd Street	0812	5564	8
1401 22 nd Street-Rear	0812	5564	8

DISTRICT OF COLUMBIA
DISTRICT DEPARTMENT OF THE ENVIRONMENT
PUBLIC NOTICE
NOTICE OF FUNDING AVAILABILITY

Natural Resources Administration

The District of Columbia Department of Environment (DDOE) is soliciting applications from educational institutions, federal agencies, District of Columbia government agencies, and nonprofit organizations to assist DDOE with controlling nonpoint source pollution, protecting the District's watersheds and habitats, and meeting the District's commitment to assist with the protection and restoration of the Chesapeake Bay. Approximately \$837,000 in federal and District funds may be available on a competitive basis, pending approval by the appropriate federal agency.

The following projects will be available for application:

Demonstration of Trash Reduction Technologies in the Anacostia River Watershed
Solutions for Management of Contaminated Sediments in the Anacostia River
Greener Schools, Cleaner Water/Schoolyard Conservation Sites
RiverSmart Homes Incentive Program
RiverSmart Homes Cistern Installation Program
Surveillance Cameras to Improve Enforcement Efforts Against Illegal Dumping in DC
2008 LID Incentive Program
District-wide Low Impact Development (LID) Technologies Feasibility Demonstration Program
History of Avifaunal Population Change in the District of Columbia to Assist in Developing
Practical Habitat Management and Restoration Projects
Distribution, Abundance, and Management Recommendations for Transient Migratory Landbirds
in the District of Columbia
Backyard Wildlife Habitat Resident Education Workshops
Greenhouse Gas Emissions Inventory & Projections
Plan Development for Creation of a DC Green Map Tool

The Request for Applications will be available online at <http://www.opgd.dc.gov> under "District Grants Clearinghouse," and will also be available for pick-up beginning May 12, 2008. Applications can be obtained from:

Sheila Besse
District Department of the Environment
51 N Street, N.E., Fifth Floor
Washington, D.C. 20002

You may also request an email version of the application by writing to John Wasiutynski at: john.wasiutynski@dc.gov

The deadline for application submission is June 27, 2008 at 5:00 p.m. Five hard copies and one electronic copy of the application must be submitted to the address above. For additional information, please contact Sheila Besse, 202/535-2244.

**DEPARTMENT OF HEALTH
ADDICTION PREVENTION & RECOVERY ADMINISTRATION**

NOTICE OF FUNDING AVAILABILITY #APRA 0516-08

FY 2008 Group Recovery Homes – District of Columbia Grant

The Government of the District of Columbia, Department of Health/ Addiction Prevention & Recovery Administration (APRA) is soliciting applications for qualified applicants to organize, support and build the capacity of group recovery homes to operate, recruit and support its members. These homes are for those afflicted with alcohol and other drugs of abuse who are committed to sobriety. This program is supported through the Substance Abuse Prevention and Treatment (SAPT) block grant program, contingent upon availability of funds.

Approximately \$220,000.00 in funds will be able to support these services:

- A revolving fund program to support the establishment of group recovery homes in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 6 individuals.
- Organize, support and build the capacity of group recovery homes to operate, recruit and support its members.
- Create and implement an information exchange to match individuals seeking home placement with vacancies in houses in the District of Columbia.
- Network with APRA and treatment providers to identify clients near discharge from successful treatment who might be candidates for group recovery homes.

The Request for Applications (RFA) will be released on Friday, May 16, 2008, and the deadline for submission is Tuesday, June 10, 2008. Applications may be obtained from APRA at 1300 First Street, NE – 3rd Floor Reception Area. The RFA will also be available on the Office of Partnerships and Grants Development website, www.opgd.dc.gov under the District Grants Clearinghouse. A Pre-Application meeting will be held in the District of Columbia at the APRA Headquarters, 1300 First Street, NE Washington, DC 20002, Third Floor Conference Room, Wednesday, May 28, 2008, from 10:30 am – 12:30 pm. Please contact Michael Snoddy at (202) 535-1263 for additional information.

Applicants obtaining this RFA through the Internet should provide APRA with the following c/o Michael Snoddy (michael.snoddy@dc.gov) in order to receive any amendments or clarifications which might be issued:

- Name of organization
- Key contact
- Mailing address
- Telephone, fax numbers and E-mail address

FRIENDSHIP PUBLIC CHARTER SCHOOL
NOTICE OF REQUEST FOR PROPOSAL FOR
FOOD SERVICES MANAGEMENT CONSULTANT

Friendship Public Charter School is seeking bids from prospective candidates to provide Food Services Management in accordance with requirements and specifications detailed in the Request for Proposal.

An electronic copy of the full Request for Proposal (RFP) may be requested by contacting:

Valerie Holmes
vholmes@friendshipschools.org
202-281.1722

PAUL PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSAL**

Paul Public Charter School is seeking proposals from **Qualified Contractors** to paint 43 classrooms.

Bid specifications may be obtained by contacting:

Mr. Harold Bardonille
5800 Eighth Street, NW
Washington, DC 20011
(202) 291-7499.

Site inspection may be arranged by appointment on Monday through Friday between the hours of 9:30 AM and 4:00 PM.

Proposals will be accepted until by 4:00 PM, Thursday May 29, 2008.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT

NOTICE OF FUNDING AVAILABILITY

**DC Main Streets Program Year 2008
(Ward 4, Ward 7, and Ward 8 Target Areas)**

The Department of Small and Local Business Development is soliciting applications from qualified non-profit corporations, either in existence or in formation at the time of application, to operate a DC Main Streets program in Ward 4, Ward 7, and Ward 8 that conform to the boundaries established by the Neighborhood Investment Fund. The eligible commercial corridors are Brightwood and Upper Georgia Avenue (Ward 4); Deanwood (Ward 7); Congress Heights (Ward 8); Bellevue (Ward 8); and Washington Highlands (Ward 8). One new DC Main Streets program will be designated, through a competitive selection process, in Ward 4, Ward 7, and Ward 8.

The designated DC Main Streets programs (organization) will receive grant funding and technical assistance to support commercial revitalization initiatives. Each Main Streets organization will develop programs and services to: (1) assist business districts with the retention, expansion and attraction of neighborhood-serving retail stores; and (2) help unify and strengthen the commercial corridor. The DC Main Streets grant award is a one-time non-recurring grant.

Applications and Application Guidelines will be released beginning April 28, 2008, to be followed by three neighborhood based application workshops the week of May 12, 2008. Applicant organizations must participate in the neighborhood workshop. Information about the workshops, including dates, times and locations, will be available on the *reSTORE* DC website (www.restoredc.dc.gov), or by calling the Office at (202) 727-3900. Applications may be obtained at any of the workshops, or by calling the Office at (202) 727-3900. *Interested organizations should forward their email addresses to receive timely updates on the application process and requirements to www.restoredc.dc.gov.*

A non-binding Notice of Intent to Apply, postmarked by May 27, 2008, must be submitted by applicant organizations to DC Main Streets, Department of Small and Local Business Development, 441 4th Street, NW, Suite 970N, Washington, DC 20001. Applications must be submitted to DC Main Streets, Department of Small and Local Business Development, 441 4th Street, NW, Suite 970N, Washington, DC 20001, by 4:00 PM on Monday, June 30, 2008. An application is considered complete if all questions are answered in the allotted space, all signatures are affixed, all requested attachments are included, and the original UNBOUND application and ten (10) copies are submitted by the deadline. Applications will be evaluated by an independent review panel, which will also interview the applicant organizations that pass the first round ranking. The review panel will recommend the designation of new Main Streets programs.

For more information, contact Phyllis R. Love, Assistant Director, Office of Commercial Revitalization, Department of Small and Local Business Development at (202) 727-3900.

DC STATE BOARD OF EDUCATION

NOTICE OF PUBLIC MEETING

State Board of Education Meeting

This is a regular meeting of the State Board of Education.

The State Board is scheduled to vote on standards for The Arts: Dance, Music, Theater and Visual Arts. There will be an update on the Annual School Report Card redesign, the Literacy campaign and the First Day of School campaign.

Should anyone wish to testify before the State Board of Education, please contact the office by May 19, 2008.

Wednesday, May 21, 2008
5:30 pm
Old Council Chambers
441 4th Street, NW
Washington, DC 20001

Contact: Beverley R. Wheeler (202)741-0888
Beverley.wheeler@dc.gov

**WASHINGTON CONVENTION CENTER AUTHORITY (WCCA)
ADVISORY COMMITTEE**

MEETING POSTPONEMENT

Please be advised that the Washington Convention Center Authority (WCCA) Advisory Committee meeting scheduled at 5:00 pm on Thursday, May 15, 2008, has been postponed.

The next WCCA Advisory Committee meeting will be held at:

**5:00 pm
Thursday, May 22, 2008**

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**Walter E. Washington Convention Center  
801 Mount Vernon Place, NW  
Dr. Charlene Drew Jarvis Board Room  
Washington, DC 20001**

For additional information, please contact Theresa DuBois, WCCA External Affairs Manager, and Liaison to the WCCA Advisory Committee, at (202) 249-3042 or via e-mail at [tdubois@dcconvention.com](mailto:tdubois@dcconvention.com).

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Appeal No. 17615 of William Harnett**, pursuant to 11 DCMR § 3112, from the November 17, 2006 administrative decision of the Zoning Administrator ("ZA"), Department of Consumer and Regulatory Affairs ("DCRA"), to issue Building Permit No. 101019, permitting the alteration and repair of the owner's parking garage, including striping of five (5) new parking spaces, identified as spaces P-1 through P-5. The subject property is located in the W-3 zone district at premise 3030 K Street, N.W. (Square 1173, Lot 102).

**HEARING DATES:** June 5, 2007, July 17, 2007, July 31, 2007  
**DECISION DATES:** October 2, 2007, October 23, 2007

**ORDER**

**PRELIMINARY MATTERS**

On January 12, 2007, William Harnett ("Appellant") filed this appeal with the Board of Zoning Adjustment (the "BZA" or the "Board") challenging the decision of the ZA to issue Building Permit No. 101019 to Washington Harbour Condominium Unit Owners' Association, Inc. (herein referred to as "property owner"). The ZA issued the building permit on November 17, 2006, authorizing "alteration and repair" of the property owner's below-grade parking garage, including the creation of five new parking spaces. The Appellant claims that aspects of these new spaces do not comply with the Zoning Regulations and further, that they negatively impact the use of the spaces he currently owns in the same garage.

The Board heard the appeal over the course of several hearing dates and, at its decision meeting on October 23, 2007, decided 3-0-2, to deny the appeal.

**FINDINGS OF FACT**

**Background**

1. The property whose below-grade parking garage ("garage") is the subject of this appeal is located at 3030 K Street, N.W., in Square 1173, Lot 102, within a W-3 zone district, and is known as the Washington Harbour condominium building.
2. The building and garage were constructed in the mid-1980's.

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3. Sometime in 2004, the property owner decided to add five more parking spaces to the 48 that already existed in the garage.
4. For the purposes of this appeal, the new parking spaces will be referred to collectively as "the five new parking spaces" and individually as numbers one, two, three, four, and five, as they are depicted on numerous exhibits in the record, for example, Exhibit No. 4, Attachment No. 5, Exhibit No. 16, Attachment No. 4, and Exhibit No. 28, Attachment No. 1.
5. The striping of the five new parking spaces was completed on or about September 20, 2004.
6. Appellant owned and still owns at least two parking spaces in the garage that pre-existed the five new spaces added on that date. The numbers of the parking spaces owned by the Appellant are P-112 and P-116, as shown on the Exhibits listed in Finding of Fact Number 4.
7. In order to resolve zoning and building code enforcement actions brought because the striping was performed without a building permit, the property owner, on November 15, 2006, applied to DCRA for a permit authorizing it to "alter" the garage by creating, i.e., striping, five new parking spaces. Exhibit No. 4, Attachment No. 3.
8. The building permit authorizing the striping of the five new parking spaces was issued on November 17, 2006. Exhibit No. 4, Attachment No. 1.
9. The appeal was filed on January 12, 2007, less than 60 days later.

Vertical Clearance of Parking Space Number 5

10. Appellant claimed that parking space number five had a vertical clearance of less than 6 feet, 6 inches, in violation of 11 DCMR § 2115.5.
11. The plans accompanying the building permit application showed that the vertical clearance of parking space number five, which is located underneath a junction box, is 6 feet, 8 inches.

Size, striping, and drive aisle width

12. Appellant claimed the five new parking spaces did not comply with §§ 2117.1 and 2117.3, which govern the size and striping of "required" parking spaces and § 2117.5, which establishes a minimum driving aisle width between such spaces. None of these provisions contain the phrase "all parking spaces."
13. Subsection 2118.9 provides that "whenever the word "all" is followed by the words "parking spaces" in the same sentence, the parking requirements as specified shall apply to all parking spaces, whether or not the spaces are required by this chapter."

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14. The required parking spaces referred to in § 2118.9 mean those parking spaces that a building must provide in accordance with the parking schedule that follows the text of 11 DCMR § 2101.1.
15. According to that schedule, a multiple dwelling located in a W zone district, such as the Washington Harbour condominium building, is required to provide one parking space for each three units. Washington Harbour has 35 dwellings units. Dividing 35 by 3 results in a product of 11.6. Subsection 2118.6 provides that “[w]henever calculations based on the schedule set forth in § 2101 result in a fractional space... any fraction of one-half or over shall require one (1) parking space.” Therefore the required parking for the building is 12 spaces.
16. Counting the five new parking spaces, the building provides 41 more spaces than the 12 required.
17. The Zoning Regulations did not require that the property owner specify on its building permit application which of its 53 parking spaces represented the 12 that must meet provisions applicable to required parking spaces.
18. The property owner has identified 12 parking spaces that meet all the necessary Zoning Regulations, including the three provisions that Appellant contends the five new parking spaces should meet. These spaces are numbered P-118 through P-126 and P-128 through P-130 (“required space(s)”). See, Exhibit No. 28, Attachment No. 1 (wherein these required parking spaces are specifically delineated).
19. As to those three provisions, each of these twelve spaces is at least 19 feet long by 9 feet wide, 11 DCMR § 2115.1, appropriately striped, 11 DCMR § 2117.3, and separated from another required space by a drive aisle of at least 20 feet wide, 11 DCMR § 2117.5.

**Vehicle Encroachment**

20. Appellant claims that the five new parking spaces violate § 2117.7, which protects “the public rights-of-way as well as private walkways and driveways ... from vehicular encroachment from all parking spaces” by requiring the installation of “wheel bumper guards, curbs, guard rails, or screening between the property line and the perimeter of the parking area.”
21. The boundaries of the five new parking spaces do not coincide with any property line that separates the perimeter of the garage’s parking area from any public right of way or a private walkway or driveway.
22. The perimeter of the garage does not abut any private driveway and the two property lines that separate the lot from 31st Street and the Potomac River Parkway are not anywhere near the five new spaces.

**CONCLUSIONS OF LAW**

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**The Board's jurisdiction over the appeal**

The property owner moved to dismiss the appeal on jurisdictional grounds. The property owner first claims that the appeal is not within the Board's subject matter jurisdiction because it "deals only with the issuance of the Permit" and not with the administration or enforcement of the Zoning Regulations. The motion further argued that the appeal must be dismissed as untimely because it had to be filed within DCRA within 15 days of the November 17, 2006 issuance of Building Permit No. 101019, pursuant to 12A DCMR § 112.1. Exhibit No. 15, at 2-3. The Board has no jurisdiction to hear an untimely-filed appeal. *Mendelson v. D. C. Board of Zoning Adjustment*, 645 A.2d 1090, 1093 (D.C. 1994).

The Board concludes it has subject matter jurisdiction over this appeal. Section 8 of the Zoning Act of 1938, D.C. Official Code § 641.07 (f) (2001) authorizes appeals to the Board of "any decision ... granting or refusing a building permit ... based in whole or in part on any Zoning Regulation." The appeal here falls squarely within the authority granted by section 8, as it challenges the issuance of a building permit based upon claimed violations of certain Zoning Regulations.

As to timeliness, the section of the Building Code cited by the property owner does not apply to this Board or this appeal. Subsection 112.1 of DCMR Title 12A provides for appeals "*within the Department* from the issuance or denial of a building permit, ... *which shall be based on a claim that the Construction Codes or the rules legally adopted thereunder have been incorrectly interpreted or applied,*" (emphasis added). This appeal does not allege violations of the Construction Code, but as noted above, allegations that the Zoning Regulations have been incorrectly interpreted and applied. As such, the Board's authority to hear this appeal is based in the Zoning Act and the Zoning Regulations and is not subject to any rule of procedure adopted by any other District agency.

Section 8 of the Zoning Act vests the Zoning Commission with the exclusive authority to "specify in its zoning regulations general rules to govern the ... procedure of the Board of Adjustment," D.C. Official Code § 6-641.07(f), (c). Pursuant to that authority, the Zoning Commission adopted 11 DCMR § 3112.2, which requires that appeals be filed no later than 60 days after the date that an appellant knew or should have know of the decision (in this case the issuance of the building permit). That permit was issued on November 17, 2006. The appeal was filed on January 12, 2007, less than 60 days later. The appeal is therefore timely.

**The merits of the appeal***Required v. All Parking Spaces*

There is no dispute that the Washington Harbour condominium building must provide at least 12 parking spaces on its lot. Nor is there any disagreement that at least this number of spaces exists

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within its parking garage. What separates the parties is Appellant's contention that *all* of the requirements of Chapter 21 of the Zoning Regulations, which governs off-street parking, apply to *all* 53 of the parking spaces in the garage, including the five new spaces that are the subject of this appeal. However, the parking regulations distinguish between *all* parking spaces and those that are *required* by Chapter 21. For the reasons stated below, the Board concludes that the five new spaces need only comply with provisions that refer to "all" parking spaces.

Title 11 DCMR § 2118 sets forth the rules of interpretation that are applicable to all of Chapter 21. Section 2118.9, provides as follows:

Except where otherwise indicated, whenever the word "**all**" is followed by the words "**parking spaces**" in the same sentence, the parking requirements as specified shall apply to all parking spaces, *whether or not the spaces are required by this chapter.*

(Emphasis added).

The Board interprets the reference to "spaces ... required by this chapter" to refer to the minimum number of parking spaces that each building must provide in accordance with § 2101.1. Thus, when more parking spaces are constructed than are required, as is the case here, only those provisions of Chapter 21 that say "all parking spaces" apply to all of the parking spaces. Conversely, those provisions that do not refer to "all parking spaces" apply only to those spaces required by § 2101.1. Applying this principle to the Washington Harbour condominium building, only twelve of its parking spaces must comply with the provisions that are only applicable to required spaces.

The Zoning Regulations do not require that the plans accompanying a building permit designate the location of the required spaces, or that once constructed, the required spaces must be demarked in some fashion and never relocated. Rather, the plans need only show that the number of parking spaces that meet the specific requirements applicable to required spaces are at least equal to the number of parking spaces required. In this appeal, that number is twelve. Of course, these required spaces must also meet the requirements applicable to "all" parking spaces.

The property owner has identified 12 spaces that met both sets of requirements at the time its application for a building permit was reviewed. These are depicted covered with diagonal lines on Exhibit No. 28, Attachment No. 1, and are numbered P-118 through and including P-126 and P-128, P-129, and P-130. Therefore, the remaining 41 spaces, including the five new parking spaces, need only comply with those provisions that apply to "all" parking spaces.

Three of the regulations cited by Appellant, §§ 2117.1, 2117.3 and 2117.5 do not include the phrase "all parking spaces", but specifically refer to "required parking spaces." Therefore, in accordance with the rule of interpretation set forth at § 2118.9, these provisions only apply to the 12 required spaces described above and not to the five new spaces that are the subject of this



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appeal. As a consequence, the portion of this Appeal alleging such violations is denied.<sup>1</sup>

This leaves the Board to address the Appellant's remaining assertions of error that apply to the regulations governing *all* parking spaces.

*Vertical clearance*

Appellant claims that new space five does not meet the requirement of § 2115.5 that all parking spaces have a 6-foot, 6-inch vertical clearance. The record, however, shows that new space five, although located under a junction box, has a vertical clearance of 6 feet, 8 inches. Finding of Fact No. 7. Appellant, whose burden it is to demonstrate the vertical clearance violation, has not offered any convincing evidence to contradict this measurement.

*Encroachment on public rights of way and private walkways and driveways*

Section 2117.7 applies to all parking spaces, and states, in relevant part, that

[t]he public rights-of-way as well as private walkways and driveways shall be protected from vehicular encroachment from all parking spaces by wheel bumper guards, curbs, guard rails, or screening *between the property line and the perimeter of the parking area.*

(Emphasis added).

Appellant claims that there are no striping or bumper guards at the ends of new parking spaces two and three. However none are needed. The regulation does not even mention striping and only requires bumper guards "between the property line and the perimeter of the parking area." The boundaries of the five new parking spaces do not coincide with any property line that separates the perimeter of the garage's parking area from any public right of way or a private walkway or driveway. Indeed, the perimeter of the garage does not abut any private driveway and the two property lines that separate the lot from 31st Street and the Potomac River Parkway are not anywhere near the five new spaces.

Appellant is concerned that the absence of bumper guards will result in vehicles encroaching into the drive aisle. He also appears to contend that a sign directing pedestrians toward an elevator will create a pedestrian walkway through space P-116, which he owns. Even if both assertions are true, no violation of § 2117.7 would result. The subsection does not prohibit encroachments of any kind, but requires the installation of specific devices to prevent vehicles from encroaching on private or public property separated from the perimeter of a parking area by a property line. Although the subsection begins by explaining the reason for its requirement, *i.e.* that "public

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<sup>1</sup>The Board further notes that any alleged violation of § 2117.1, which provides that required parking spaces be permanently maintained, could only occur after the issuance of a building permit and thus would not serve as grounds for denial of the building permit.

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rights-of-way as well as private walkways and driveways shall be protected from vehicular encroachment,” such explanatory language establishes no actual prohibition against encroachment of any kind, at any location.

*Reasonable and convenient parking spaces*

Appellant argues that the five new parking spaces are not “located so as to furnish reasonable and convenient parking facilities” for occupants or guests of the building, which he claims violates § 2116.8. He also requests that the Board invoke § 2116.9 to impose conditions on the five new parking spaces to assure their continued provision and maintenance, even though, as non-required spaces, they would not be subject to the maintenance requirement of § 2117.1.

The first provision has no role to play when the ZA is reviewing requests to construct parking spaces and the second may not be utilized by the Board when considering an appeal of such a review. These provisions only apply to instances when the Board is hearing a special exception to locate parking spaces where they are not permitted.

The various subsections of § 2116 must be read *in pari materia*. Subsection 2116.1 requires that “all” parking spaces must be located on the same lot with the building they serve, subject to certain exceptions. Subsection 2116.2 sets forth the specific areas within the lot where such parking spaces may only be located, which includes a garage. Subsection 2116.5 then permits the Board to allow, by special exception, “open parking spaces accessory to any building or structure [to] be located anywhere on the lot upon which the building or structure is located, or elsewhere [i.e. on another lot]... *in accordance with §§ 2116.6 through 2116.9.*” (Emphasis added.)

Thus it is only in the context of such a special exception request that the italicized provisions must be satisfied. While an inquiry regarding reasonable and convenient parking is relevant to a request to locate parking spaces where they are not permitted, and particularly when location will be on a different lot, it has no role to play when parking spaces will be located where they are supposed to be, i.e., pursuant to §§ 2116.1 and 2116.2. Subsection 2116.8 is for the Board to apply in its special exception analysis for parking spaces not meeting § 2116.2. It does not authorize the Zoning Administrator to consider the issue where spaces are located pursuant to §§ 2116.1 and 2116.2. Accordingly, the ZA committed no error by not doing so.

Subsection 2116.9 authorizes the Board, within the context of a § 2116.5 special exception, to impose conditions to ensure provision and maintenance of parking spaces and to protect nearby property. This, of course, is particularly relevant when the request is to locate parking spaces on someone else’s property. This provision does not also authorize the Board to impose such conditions when hearing an appeal that happens to concern parking spaces. Subsection 2116.9 is not relevant to this appeal.

The Board’s interpretation of §§ 2116.8 and 2116.9 as applying only within the context of a § 2116.5 special exception is consistent with the long-standing interpretation of the Zoning

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Regulations, as borne out by the testimony at the hearing. *See*, July 17, 2007 Hearing Transcript, at pp. 395-398 (testimony of Lindsley Williams) and July 31, 2007 Hearing Transcript, at pp. 188-198 (testimony of Acting ZA, Matt LeGrant). This long-held and reasonable interpretation of the limited applicability of §§ 2116.8 and 2116.9 will not be disturbed by the Board. *See, e.g., Smith v. D.C. Board of Zoning Adjustment*, 342 A.2d 356, 359 (D.C. 1975).

Appellant generally contends that the five new spaces adversely impact the use of his parking spaces. The Zoning Administrator cannot reject a building permit after finding that all applicable zoning requirements have been met. Once the ZA made that determination as to this building permit, he could not consider any extraneous factors, including the potential impact of the matter of right use being constructed. No error was committed.

*Parking Plan*

Finally, the Appellant also alleges that the creation of the five new parking spaces violated §§ 2100.2 and 2100.3. These sections state, respectively, that no post-1958 building permit can be issued for a building or a structure until a proper parking plan has been approved, and no certificate of occupancy can be issued unless the parking spaces depicted in the approved plan have been provided. Since the Washington Harbour building was built, and its building permits and certificate of occupancy issued, approximately twenty years ago, the proper time to bring forth these claims has long passed.

**Great Weight**

The Board is required to give “great weight” to issues and concerns raised by the affected ANC. D.C. Official Code § 1-309.10(d) (2001). Great weight means acknowledgement of these issues and concerns and an explanation of why the Board did or did not find the ANC’s views persuasive.

The letter from ANC 2E in this case, dated June 28, 2007, referred to an earlier ANC letter, dated October 6, 2006, which was filed in BZA Appeal No. 17517. In that appeal, the property owner appealed a Notice of Infraction issued by the ZA on January 4, 2005, which DCRA later withdrew. The ANC letter filed in the instant appeal states that the ANC’s position in BZA Appeal No. 17517 had not changed – the ANC supports Mr. Harnett. In neither letter does the ANC explain its decision to support Mr. Harnett, nor does either letter set forth any issues or concerns to which the Board could accord great weight and therefore none can be given.

For the reasons stated above, the Board concludes that the Appellant did not meet its burden of demonstrating that DCRA or the ZA erred in issuing Building Permit No. 101019, and in consequently allowing the striping of new parking spaces one through five in the garage. Therefore, it is hereby **ORDERED** that this appeal be **DENIED**.

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**VOTE:**        **3-0-2** (Ruthanne G. Miller, Curtis L. Etherly, Jr., and Marc D. Loud, to deny;  
No fourth member nor Zoning Commission member participating or  
voting.)

Each concurring Board member has approved the issuance of this Decision and Order and authorized the undersigned to execute the Decision and Order on his or her behalf.

**FINAL DATE OF ORDER:**       **MAY 2 2008**      

PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

**Application No. 17750 of Prashant and Nirupma Rohatgi**, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the front yard setback requirements under subsection 1543.4, and a special exception under § 223, for an existing single-family dwelling not meeting the lot area requirements (section 401) the rear yard requirements (section 404) and the non-conforming structure requirements (section 2001.3), to allow a side addition and addition of a cantilevered roof, at premises 4505 Macomb Street, N.W. in the WH/R-1-B District (Square 1604, Lot 842).<sup>1</sup>

**HEARING DATE:** April 8, 2008

**DECISION DATE:** April 8, 2008 (Bench Decision)

**SUMMARY ORDER**

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3D, which is automatically a party to this application. ANC 3D submitted a report in support of the application. The Office of Planning (OP) submitted a report in support of the relief related to the side addition, but not in support of the relief related to the roof addition.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the

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<sup>1</sup> The original self-certified application sought only variance relief for the side addition. In response to conversations with the Office of Planning, the Applicant amended its application to add the special exception relief. In addition, the Applicant amended the application at the public hearing to include variance relief for the cantilevered roof addition. Despite the additions to the relief sought, the proposed additions remained the same. The Board also discussed at the hearing whether the roof addition might require relief under subsection 2503.2, which generally prohibits encroachments into a required yard but determined that this additional relief was not necessary.

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burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under section 223.

Based upon the record before the Board and having given great weight to the OP and ANC reports the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Based upon the record before the Board and having given great weight to the ANC and the OP reports filed in this case, the Board concludes that the Applicant has met the burden of proving under 11 DCMR § 3103.2, (*§ 1543*) that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party. Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

**VOTE: 5-0-0** (Ruthanne G. Miller, Shane L. Dettman, Mary Oates Walker,  
Marc D. Loud and Gregory N. Jeffries to approve)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

Each concurring member approved the issuance of this order.

**FINAL DATE OF ORDER:** MAY 5 2008

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FILING**

**Z.C. Case No. 08-11**

**(Zoning Map Amendment – Square 475E, Lot 1)**

**May 6, 2008**

**THIS CASE IS OF INTEREST TO ANC 2C**

On April 30, 2008, the Office of Zoning received an application from Henok Araya (the “applicant”) for approval of a Zoning Map amendment for the above-referenced property.

The property that is the subject of this application consists of Square 475E, Lot 1 in Northwest Washington, D.C. (Ward 2) with an address of 1800 New Jersey Avenue, N.W. The property is currently zoned R-4. The applicant proposes to rezone the property to C-2-A. (See summaries of the R-4 and C-2-A Zone Districts below.)

The R-4 Zoning District permits matter-of-right development of single-family residential uses (including detached, semi-detached, row dwellings, and flats), churches and public schools with a minimum lot width of 18 feet, a minimum lot area of 1,800 square feet and a maximum lot occupancy of 60% for row dwellings, churches and Flats, a minimum lot width of 30 feet and a minimum lot area of 3000 square feet for semi-detached structures, a minimum lot width of 40 feet and a minimum lot area of 4000 square feet and 40% lot occupancy for all other structures; and a maximum height of three (3) stories/forty (40) feet. Conversions of existing buildings to apartments are permitted for lots with a minimum lot area of 900 square feet per dwelling unit.

The C-2-A Zoning District permits matter-of-right low density development, including office, retail, and all kinds of residential uses to a maximum lot occupancy of 60% for residential use, a maximum FAR of 2.5 for residential use and 1.5 FAR for other permitted uses, and a maximum height of fifty (50) feet.

For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FILING**

**Z.C. Case No. 08-13**

**(Consolidated PUD and Related Map Amendment – Square 370, Lots 18, 21,  
22, 24, 801-806, 830-839, 843, and 845, and a public alley to be closed)**

**May 7, 2008**

**THIS CASE IS OF INTEREST TO ANC 2F**

On May 1, 2008, the Office of Zoning received an application from Marriott International, Inc. (the “applicant”) for approval of a consolidated PUD and related map amendment for the above-referenced property.

The property that is the subject of this application consists of Square 370, Lots 18, 21, 22, 24, 801-806, 830-839, 843, and 845, and a public alley to be closed in Northwest Washington, D.C. (Ward 2) and is a site bounded by 9<sup>th</sup> Street (east), 10<sup>th</sup> Street (west), L Street (north), and Massachusetts Avenue (south). The property is currently split-zoned DD/C-2-C and DD/C-3-C. The applicant proposes to extend the DD/C-3-C to the western portion of the property.

The applicant proposes to construct the Washington Marriott Marquis, a convention center hotel consisting of approximately 765,400 Square feet of gross floor area and approximately 1,125 to 1,150 guest units. The hotel would have underground parking to accommodate 388 valet parked vehicles, a maximum building height of 130 feet, and a density of approximately 9.3 floor area ratio (FAR).

For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FILING**

**Z.C. Case No. 08-14**

**(Consolidated PUD & Related Map Amendment – Square 421, Lots 67 & 68)  
May 7, 2008**

**THIS CASE IS OF INTEREST TO ANC 2C**

On May 1, 2008, the Office of Zoning received an application from Kelsey Gardens Property Company, LLC (the “applicant”) for approval of a consolidated PUD & related map amendment for the above-referenced property.

The property that is the subject of this application consists of Square 421, Lots 67 & 68 in Northwest Washington, D.C. (Ward 2) in the 1500 block of 7<sup>th</sup> Street, N.W. The property is currently zoned C-2-A.

The applicant proposes to redevelop the Kelsey Gardens site with a new 90-foot high mixed-use residential/retail building containing approximately 207 market rate apartments, 54 subsidized residential units (affordable to persons who are at or under 60% of area median income), and 14,534 square feet of ground floor retail space. The adjacent parking lot will be developed with seven three-story townhouses, which will be leased for residential or office/retail use. The PUD will have a total density of 6.0 FAR, and it will have 184 below-grade parking spaces.

The applicant also proposes a related Zoning Map Amendment to rezone the property to C-3-C.

For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****Z.C. ORDER NO. 05-15A****Z.C. Case No. 05-15A****(Application for the Modification to Planned Unit Development)****Broadway I Associates, LLC - 318 I Street, NE (Square 775, Lot 50)****April 14, 2008**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on February 7, 2008, to consider an application from Broadway I Associates, LLC (the "Applicant") to modify the approved planned unit development ("PUD") for Lot 50 (formerly Lots 1, 22, 23, 32, 826, and 827) in Square 775 located at 318 I Street, N.E. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Municipal Regulations (DCMR) Title 11 (Zoning). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT****The Applications, Parties, and Hearing**

1. On July 2, 2007, the Applicant filed an application with the Commission for review and approval of a modification to an approved PUD in Square 775, Lot 50 (the "Property"). (Exhibits 1 and 2)
2. The PUD was originally approved in Z.C. Order No. 05-15 dated July 21, 2006.
3. The Commission approved a residential development with approximately 160,000 square feet of residential use, including 9,120 square feet of affordable housing, a height of 65 feet, and a density of 5.65 floor area ratio ("FAR"). A parking ratio of one parking space to each residential unit was approved for the PUD, with a minimum of 12 additional visitor spaces.
4. The Applicant submitted its application to modify the PUD to make the project more financially viable given recent changes to the real estate market. (Exhibits 1 and 2)
5. The application requests modifications to the PUD to: increase the approved unit count for the PUD from 125 to 140 units to 166 to 180 units; to increase the height of the project from 65 to no more than 70 feet; to decrease the lot occupancy from 85% to no more than 80%; to reduce parking below a 1:1 ratio of

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- parking spaces to 140 to 180 parking spaces; and to revise the building plans and elevations. (Exhibits 1 and 2)
6. The Office of Planning ("OP") submitted its setdown report on August 31, 2007. (Exhibit 10)
  7. At the September 10, 2007 Commission meeting, the Commission set the case down for a public hearing.
  8. The Applicant submitted its pre-hearing submission on November 28, 2007 and its 20-day filing to the Commission on January 18, 2008. (Exhibits 12 and 23, respectively)
  9. OP submitted its final report on January 28, 2008. (Exhibit 24)
  10. A duly noticed public hearing was held on February 7, 2008. There were no requests for party status. No parties or persons testified in support or in opposition of the modification to the PUD. Advisory Neighborhood Commission ("ANC") 6C, the ANC in which the Property is located, is automatically a party to this application.
  11. The ANC appeared at the public hearing and requested an additional two weeks to work with the Applicant to finalize the amenities package. The Commission agreed to leave the record open for two weeks to allow for such communication.
  12. The Commission took proposed action on March 10, 2008 approve the application by a vote of 5-0-0.
  13. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to the District of Columbia Home Rule Act. NCPC, by action dated March 27, 2008, found the proposed modification would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.
  14. The Commission took final action to approve Case No. 05-15A on April 14, 2008, by vote of 5-0-0.

**The Property**

15. The Property is in the C-2-B Zone District. The Property consists of approximately of 28,353 square feet of land and is located in the Near Northeast neighborhood of Ward 6 at the northwest corner of 4<sup>th</sup> and I Streets, N.E. The Property was most recently used by the Uptown Bakery as a wholesale bakery

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establishment and accessory parking lot for the many trucks owned by the bakery. (Exhibit 2)

16. The City's planning objectives call for more residential use in the area of the Property. The Property is located in the Moderate-Density Residential and Moderate-Density Commercial land use categories as shown on the District of Columbia Generalized Land Use Map. The properties to the north, east, and south of the Property in Square 775 are included in the Moderate-Density Residential land use category. The square directly to the west of the Property is located in the Low-Density Commercial/Moderate-Density Residential land use categories. The properties further to the south – on H Street – are in the Moderate-Density Commercial/Medium-Density Residential land use categories. The properties further to the west, which include the Station Place PUD site, are located in the High-Density Commercial land use category. Prior to the recent revision to the Generalized Land Use Map, the Property was previously located in the Moderate-Density Residential land use category. (Exhibit 2)

#### **Modification to the PUD**

17. The unit count for the entire PUD will increase to a total of approximately 166 to 180 units, rather than the previously approved maximum of 125 to 140 units. The real estate market has demonstrated a preference for smaller units rather than larger ones. Increasing the overall unit count will enable the Applicant to reduce the size of the units as necessary. (Exhibit 2)
18. The parking spaces will be altered from one parking space for each unit to 140 to 180 spaces. Twelve visitor parking spaces will be also be provided. Access to the below-grade parking garage will remain from the public alley located on I Street, N.E., in the middle of the block between 3<sup>rd</sup> and 4<sup>th</sup> Streets, N.E. (Exhibit 2)
19. The reduction of the parking ratio will have a minimal effect on parking and traffic, if any. (Exhibit 2)
20. As a result of creating small units, the building foot print was reduced such that the lot occupancy decreased from 85% to no more than 80%. (Exhibit 2)
21. The façades and floor plans of the building will be modified pursuant to the plans submitted on July 2, 2007 (Exhibit 2), as modified by the Applicant's pre-hearing statement on November 28, 2007 (Exhibit 12), as modified by the Applicant's 20-day filing on January 18, 2008 (Exhibit 23), as modified by the Applicant's perspectives and drawings presented at the hearing and submitted into the record on February 7, 2008 (Exhibit 30)

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22. The roof plan will include two roof structures and will require relief from §§ 411.3 and 711.1 as a result. In addition, as discussed at the February 7, 2008 public hearing, the Applicant requests flexibility in finalizing its design of the pergola and penthouse elements, in order to make minor modifications to lessen the appearance of height and soften the visual effect of the penthouse.
23. The project includes extensive landscape and streetscape improvements on the Property. As under Z.C. Order No. 05-15, the project reinvigorates the alley space by carefully cultivating the interior of the Property. The project entails the repaving of the north/south alley and the eastern extensions of that system in consultation with the District Department of Transportation ("DDOT"). The Applicant also will pave the northwest corner of the Property in similar materials to effectively create a central, urban courtyard around a tree planter as an amenity for residents of the project and the square. The Applicant will work closely with the DDOT to implement the proposed alley and 4<sup>th</sup> and I Streets streetscape improvements adjacent to the site. (Applicant's testimony and Exhibit 2)
24. The modification will not cause adverse traffic impacts, as demonstrated by the Applicant's Traffic Study Addendum filed on November 28, 2007, as Exhibit E to Exhibit 12 and DDOT's Report filed on February 1, 2008. (Exhibit 25)
25. The proposed height and density of the project are significantly less than the maximum provided under the PUD guidelines in the C-2-B Zone District (maximum density of 6.0 FAR and a maximum building height of 90 feet). The C-2-B Zone District, as a matter-of-right, permits a maximum height of 65 feet, a maximum lot occupancy of 80% for residential uses, and a density of 3.5 FAR with a limit of 1.5 FAR for non-residential uses. (Exhibit 2)
26. The project design and massing are compatible with the surrounding area. As shown on the perspectives submitted by the Applicant at the February 7, 2008 hearing, special attention has been paid to the scale and massing of the surrounding area, particularly on 4<sup>th</sup> Street, N.E., so that the project complements the residential neighborhood. In addition, the project acts as a bridging element to between the low scale Near Northeast neighborhoods to the larger structures to the south and west of the project, including the Station Place and Senate Square projects. The Applicant planned a building with a height lower than the PUD guidelines and greater lot occupancy to make the design appropriate for the neighborhood. The 70-foot height of the project is mitigated by a setback on the upper floor of the building and appropriate architectural treatment of the eastern façade adjacent to the lower scale smaller buildings. The Applicant requests flexibility to further refine the brick patterning to further enrich the façade's piers, as discussed at the February 7, 2008 public hearing. (Applicant's testimony, Exhibit 2, and Exhibit 30)

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27. As detailed in Exhibit E of Exhibit 2 in the record, no adverse environmental impact will result from the construction of the modified project. In addition, the increased use of water and sanitary services that will occur as a result of the project, will have an inconsequential effect on the District's delivery systems. The Property is currently served by all major utilities. The project's proposed stormwater management and erosion control plans will minimize impact on the adjacent property and existing stormwater systems. The requisite erosion control procedures stipulated by the District will be implemented during construction of the project. (Exhibit 2)
28. The project will not have an adverse impact on the public facilities that it will rely on for service. The Property is located within easy walking distance of the Union Station transportation hub, which offers Metrorail, MARC, and VRE service. In addition, numerous Metrobus lines utilize H Street, N.E., which is only one block south of the Property, such that the project is adequately served by public transportation. Bicycle usage by residents of the project has been integrated into the design of the project. Bicycle usage will be supported and encouraged through the provision of secure bike storage areas, including a bike room directly off the alley and more bike storage in the parking garage. (Exhibit 2)
29. The proposed development complies with the broad parameters of the C-2-B Zone District. However, the design scheme proposed for the PUD has created a configuration that does not meet all the requirements of the Zoning Regulations. Specifically, the Applicant seeks a roof structure relief to allow multiple roof structures. Under 11 DCMR §§ 411.3 and 711.1, buildings are required to provide only one roof structure. Multiple roof structures will allow the Applicant to reduce the perception of height at the Property and create a more attractive roof plan. (Applicant's testimony, Exhibit 2, and Exhibit 30)
30. At the February 7, 2008 public hearing, the Commission accepted Phil Esocoff of Esocoff and Associates as an expert in the field of architecture and urban design based on a review of his resume (submitted as an exhibit to the Applicant's November 28, 2007 pre-hearing submission).

#### **Public Benefits and Amenities**

31. The following benefits and amenities will be created as a result of the modification:
  - a. Housing – The greatest benefit to the neighborhood and the District as a whole is the creation of new housing opportunities consistent with the Zoning Regulations and the Comprehensive Plan. With the modification, the Applicant will be able to provide even more housing units than were originally approved. In addition, the project will create approximately 13

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affordable residential units in the Near Northeast neighborhood. The units will comprise approximately 9,186 square feet of gross floor area that will be available to potential purchasers with a household income that does not exceed 80% of the Area Median Income for the Washington, D.C. Metropolitan Statistical Area. The Applicant has distributed the affordable units throughout the building and evenly across the sizes and configurations of units offered at the property. In addition, the project is an amenity in that it proposes the construction of an entirely residential project on a commercially-zoned site. (Exhibits 2 and 29)

- b. Urban Design, Architecture, Site Planning, and Green Building Practices – The significant architectural quality and superior urban design in the development exceeds that of most matter-of-right projects. The landscaping of the open courtyard will be an attractive amenity for the building's residents and neighbors. The enhanced streetscape will similarly be an amenity for the building's residents and the neighborhood. In addition, the Applicant is included a high degree of green building elements in the project, as detailed in its list of "Low Impact Development" characteristics submitted as Exhibit 28 to the record. (Exhibits 2 and 28)
- c. Site Planning – The proposed project involves substantial site planning that includes significant landscape and hardscape improvements surrounding the property. As shown in the plans submitted to the Commission, these improvements would not be included in a matter-of-right project. These enhanced landscape and hardscape features provide benefits for the residents of the project and the entire neighborhood yet will be maintained by the new building, including upgrades to the public alley system and the streetscape. (Exhibit 2)
- d. Effective and Safe Vehicular and Pedestrian Access – The project provides effective and safe vehicular and pedestrian access by separating the two methods of accessing the building. The main vehicular ingress/egress is provided through the enhanced alley off of I Street, N.E. The pedestrian entrance is on I Street at the corner of the property near 4<sup>th</sup> Street, N.E., and the first floor residences facing the streets have their own individual entrances. (Exhibit 2)
- e. Revenue for the District – The Applicant noted that the addition of approximately 166 to 180 new households will result in the generation of additional tax revenues for the District of Columbia. (Exhibit 2)
- f. Employment and Training Opportunities – The Applicant has entered into a First Source Employment Agreement with the Department of



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Employment Services ("DOES"), and will enter into a Memorandum of Understanding with the Office of Local Business Development ("OLBD"), or any substitute agreement stipulated by the relevant District agency. (Exhibit 2)

- g. Consistency with the Comprehensive Plan – The Applicant noted that the project fosters and furthers numerous elements of the Comprehensive Plan as well as numerous major themes of the Comprehensive Plan. (Exhibit 2)
  - h. Monetary Contributions to Neighborhood Organizations – The Applicant has already contributed \$25,000 to the H Street Main Street's Ready-to-Work Program, which was a condition of approval of Z.C. Case No. 05-15 and a request of ANC 6C. The Applicant has agreed to contribute \$10,000 to the Friends of J.O. Wilson in order to provide grounds improvements to the J.O. Wilson Elementary School. (Exhibits 31, 35, and 36, respectively)
  - i. Provision of a Construction Management Plan and Citizen's Council and Traffic Calming Measures – The Applicant has agreed to provide a citizen's council and construction management plan to address issues and concerns that arise during construction. In addition, the Applicant has agreed to work with DDOT and the general contractor to try to route construction traffic in such a way as to lessen the impact on the surrounding community. (Exhibits 35 and 36)
  - j. Encourage General Contractor to Hold Job Fair – The Applicant has agreed to encourage the project's general contractor to hold one or more job fairs in the neighborhood in an effort to solicit interest from community residents in construction and/or permanent employment opportunities. (Exhibits 35 and 36)
  - k. Community Reception – The Applicant has agreed to hold a community reception as part of the grand opening for the project. (Exhibits 35 and 36)
  - l. Availability of Parking for Neighborhood – The Applicant has agreed to explore the feasibility of permitting neighborhood residents to lease excess parking spaces in the project not otherwise leased by tenants, subject to availability from time to time. (Exhibits 35 and 36)
32. The Commission finds that the modification is acceptable in all proffered categories of public benefits and project amenities and is superior in public benefits and project amenities relating to urban design, landscaping and open space, housing, transportation measures, and uses of special value to the

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neighborhood. The amount of amenities proffered is in accordance with the additional density requested in this application modification.

### **Compliance with PUD Standards**

33. In evaluating a PUD modification application, the Commission must “judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects.” (11 DCMR § 2403.8.) Given the level of project amenities and public benefits, and the fact that the modification is of a minor nature, the Commission finds that the development incentives are appropriate to approve the modification.

### **Comprehensive Plan and Public Policies**

34. The proposed PUD is consistent with and fosters the goals and policies enumerated in the newly-adopted District of Columbia Comprehensive Plan ("Comprehensive Plan").
- a. Land Use – The Land Use Element of the Comprehensive Plan seeks to stimulate the construction of housing, particularly around Metrorail stations and on infill sites. (§§ 306.12 and 307.4 of the Comprehensive Plan) The proposed modification project offers just such a project that will address the “gap” in the urban fabric that currently detracts from the character of a residential neighborhood. The proposed development complements the established character of the area and will not create sharp changes in the physical development pattern. The 4<sup>th</sup> and I Street façades, landscaping, raised first floor level access, and alternating composition of projecting bays, all combine to create a sense of scale and visual interest and weave the project into the surrounding community. Further, the project takes advantage of the site’s proximity to the Union Station Metro Station. (Exhibit 2)
  - b. Transportation - The Transportation Element of the Comprehensive Plan seeks to encourage the implementation of bicycle facilities in new residential buildings (§ 409.11). The project has been planned to be responsive to such focus on bicycle facilities. The project will include a great deal of bicycle parking, on at least two levels of the parking garage that will facilitate the greater use of bicycles by the residents of the project, and direct them away from the use of cars and taxis. (Exhibit 2)
  - c. Housing - The Housing Element of the Comprehensive Plan seeks to stimulate the development of new housing to meet the needs of present and future District residents, particularly on underutilized land (§§ 503.2 and 503.4). In addition, the Comprehensive Plan seeks to require the

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design of high-quality affordable housing (§ 503.6) and to stimulate such housing stock through the use of density bonuses (§ 504.14). The creation of approximately 166 to 180 new residential units on a site that is currently an underutilized industrial and commercial property, fenced off from the remainder of the neighborhood with a barbed wire fence, including a substantial 9,186 square foot affordable housing allocation, fully satisfies all of the above-noted provisions of the Housing Element of the Comprehensive Plan. The creation of a significant residential development on the Subject Property is also likely to help stimulate additional residential development and stabilize the neighborhood. The influx of these new residents in this neighborhood will provide the critical mass of customers needed to patronize existing, and hopefully new, commercial uses on nearby H Street, N.E. Perhaps most importantly, the project will provide additional housing without displacing any current residents of the District. (Exhibit 2)

- d. Environmental - The Environmental Element of the Comprehensive Plan seeks to enhance the planting and maintenance of street trees (§ 603.4) and to encourage the use of landscaping to beautify the city (§ 603.7). As part of its project design, the project architects have implemented a high degree of landscaping and hardscaping. In addition, the project will include several new street trees along both 4<sup>th</sup> and I Streets, N.E. The result will be a site that is significantly more attractive than it is now, but also a site that is greatly more environmentally-beneficial. (Exhibit 2)
- e. Economic Development - The Economic Development Element of the Comprehensive Plan seeks to stimulate neighborhood commercial vitality (§ 713.5) and to encourage local hiring incentives (§ 717.20). The project will achieve these economic development policies. As a result of altering an underutilized site to an active well-designed residential site with approximately 166-180 households, the project will stimulate the vitality of the area. The project will bring residents close to the H Street corridor and will assist in creating a critical mass of residents able to support the desired new commercial uses on that corridor, and elsewhere in the Near Northeast neighborhood. The project will also include both a Local, Small, and Disadvantaged Business Entity Memorandum of Understanding with LBOC that will require the greater inclusion of LSDBE entities in the project and a First Source Agreement with DOES that will require the employment of District residents. (Exhibit 2)
- f. Urban Design - The Urban Design Element of the Comprehensive Plan seeks to strengthen neighborhood character and identity (§ 910.6) and create attractive facades with well-designed buildings (§ 910.12). The

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proposed project exhibits all of the characteristics of exemplary urban design and architecture. The construction of a prominent residential building will both complement and enhance the established residential neighborhood that surrounds the site. (Exhibit 2)

- g. Capitol Hill Area Element - The proposed PUD is consistent with the goals and policies of the Capitol Hill Area Element (§ 1502) in many ways. It is particularly more in alignment with the Capitol Hill Area Element than the current industrial/commercial bakery and larger-scale delivery operation. The project will “reinforce the fabric of the neighborhood and provide needed housing” on a site that is “already zoned for commercial use” (§ 1507.2(b)), allow for a greater critical mass of residents to assist in the continued revitalization of H Street and other desirable retail destinations in the neighborhood (§ 1507.2(d)), reinforce the residential nature of the neighborhood (§ 1507.2(e)), reinforce and complement the “unique urban design” of the area and the neighborhood and reconcile “issues relating to scale, texture, materials, and context” in the neighborhood (§ 1507.2(h)), allay concerns about affordable housing (§ 1507.2(i)) both by the creation of affordable housing in the project and offering another option for housing with several configurations of units and increasing the supply of housing on Capitol Hill and in the Near Northeast Neighborhood, and address concerns about parking (§ 1507.2(j)) since the building will be “over parked” according to the Zoning Regulation requirements, including some visitor spaces. In addition, the project enhances and protects Capitol Hill’s system of historic alleys (§ 1608.8) and converts non-residential structures to housing (§ 1608.10). (Exhibit 2)
- h. Generalized Land Use Map - The recently-revised and adopted Generalized Land Use Map includes the Subject Property in the Moderate Density Residential Land Use Category. In Z.C. Order No. 821, the Property was rezoned from C-M-1 to C-2-B, in large part, because the Office of Planning determined that a designation permitting high-density residential and mixed uses was more appropriate for the largely residential area. Such a change in the designation supports the construction of a high-quality residential project on a site that is currently home to a wholesale bakery and accessory parking lot. The PUD is also consistent with the Generalized Land Use Map, which recommends the subject site for Low-Density Commercial and Moderate-Density Residential land uses. The PUD will be developed under the existing C-2-B Zone District. (Exhibit 2)

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**Office of Planning Report**

35. By report submitted on January 28, 2008, OP recommended approval of the application. OP stated that the proposed benefits and amenities proposed by the Applicant exceed the requested flexibility. OP also requested additional information on the affordable housing square footage breakdown, execution of the First Source Employment and Minority Business Opportunity Commission Program Agreements, a checklist of Leadership in Environmental Engineering and Design (LEED) features of the project, and documentation of the \$25,000 contribution to the community. (OP Testimony and Exhibit 24)
36. The OP report submitted on January 28, 2008 stated that OP believes that the land use impact of the project would be favorable to the District and that the proposed PUD modification will achieve multiple goals of the Comprehensive Plan. (OP Testimony and Exhibit 24)

**ANC 6C Resolution**

37. By letter dated February 5, 2008, ANC 6C stated that it opposed the proposed modification to the project because the proposal was, "taking too much from the community ... and not offering sufficient amenities in return." The ANC also designated Alan Kimber to continue discussions with the Applicant regarding amenities and possible support of the project, pending additional discussion. By letter dated February 22, 2008, ANC 6C stated that it no longer opposed the application for modification to the PUD, subject to the agreement from the Applicant to include certain amenities in the project, as detailed on Exhibit 35. (Exhibits 26 and 35)

**CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces and other amenities." (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Notice of the public hearing was provided in accordance with the Zoning Regulations.

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3. The modification to the approved PUD continues to implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design and that would not be available under matter-of-right development.
4. The modified PUD is within the applicable height, bulk, and density standards of the Zoning Regulations. The height and density will not cause a significant adverse effect on any nearby properties and will enable the critical concentration of residents required to transform this underutilized area. Mixed-use is appropriate for the Property; the uses are permitted as a matter-of-right for the designated zone districts. As demonstrated in the Traffic Study submitted by the Applicant and the report from DDOT submitted into the record, the modification will not cause adverse traffic impacts and the Property is located in close proximity to mass transit. The PUD, as modified, is appropriately designed to complement and respect the existing adjacent buildings with respect to height and mass. The approval of the application for a modification would not cause any potential adverse effects on the surrounding area.
5. The Commission finds that the additional height of the project – 70 feet rather than 65 feet – is an appropriate height and the project relates well to nearby townhouses. The Commission finds that the treatment of the lower levels of the project, including individual entries on a rhythm and scale similar in frequency and detailing to that of individual row houses, balcony projections, front yards, two-story windows, and significant landscaping create a design along 4<sup>th</sup> Street, N.E., that is consistent with townhouses and townhouse neighborhoods throughout the Near Northeast Neighborhood, Capitol Hill, and the District.
6. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards. The Commission may also approve design elements that are permitted by variance or special exception and would otherwise require approval by the Board of Zoning Adjustment. In this application, the Commission finds that the requested flexibility from the requirements of §§ 411.3 and 771.1 regarding the number of roof structures, and if necessary the requirements of §§ 411.5 and 771.1 regarding the uniform height of roof structures, can be granted with no detriment to surrounding properties and without detriment to the zone plan or map. The proposed roof structures result in a more attractive design solution for the proposed project.
7. The benefits and amenities provided by the PUD, are reasonable for the development proposed in Z.C. Case No. 05-15A and commensurate with the amount of bonus density gained through this application.

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8. The modification application seeks to increase the unit count of the PUD to a maximum of 166 to 180 units, to have 140 to 180 parking spaces (with an additional 12 visitor parking spaces), to increase the height to no more than 70 feet (from 65 feet), and to decrease the lot occupancy from 85% to no more than 80%.
9. No adverse environmental impact will result from the construction of the project. In addition, the increased use of water and sanitary services that will occur as a result of the project, will have an inconsequential effect on the District's delivery systems. The Property is currently served by all major utilities. The project will not have an adverse impact on the public facilities that it will rely on for service.
10. Approval of the PUD modification application is appropriate because the proposed development is consistent with the present character of the area and the existing zoning.
11. Approval of the PUD modification application is not inconsistent with the Comprehensive Plan. Specifically, the Commission believes that the proposed project will provide a signature residential project of appropriate height that, along with the Senate Square project, provide a critical mass of new residents that will revitalize the commercial corridor of H Street, N.E.
12. 11 DCMR § 2403 provides the standards for evaluating a PUD application. 11 DCMR § 2403.9 provides categories of public benefits and project amenities for review by the Commission. The objective of the PUD process is to encourage high-quality development that provides public benefits and project amenities by allowing applicants greater flexibility in planning and design than may be possible under matter-of-right zoning. The instant application will achieve the goals of the PUD process by creating high-quality residential development, with a significant affordable housing component, on the Property which will help to enliven and revitalize the Near Northeast neighborhood of Ward 6.
13. The Commission is required under D.C. Code § 1-309.10(d)(3)(A) to give "great weight" to the issues and concerns of the affected ANCs. As is reflected in the Findings of Fact, ANC 6C voted not to oppose the project, if the Applicant agreed to certain additions to the project's amenities package, and the Applicant complied.
14. The application to modify the PUD and remain consistent with the existing zoning for the Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

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15. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### **DECISION**

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia orders **APPROVAL**, consistent with this Order and Z.C. Order No. 05-15, of Z.C. Case No. 05-15A for modification to the original consolidated review and PUD approved by Z.C. Order No. 05-15 for property located in Square 775, Lot 50. The approval is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans and materials prepared by Esocoff & Associates, submitted on July 2, 2007 (Exhibit 2), as modified by the Applicant's pre-hearing statement on November 28, 2007 (Exhibit 12), as modified by the Applicant's 20-day filing on January 18, 2008 (Exhibit 23), as modified by the Applicant's perspectives and drawings presented at the hearing and submitted into the record on February 7, 2008 (Exhibit 30), as modified by the guidelines, conditions, and standards of this Order.
2. In accordance with the plans and materials noted above, the approved PUD shall consist of an all-residential project that includes a maximum of 166 to 180 residential units. The entire project shall include no more than 160,000 square feet of gross floor area resulting in a density of no more than 5.65 FAR. The new building shall not exceed a height of 70 feet and the total lot occupancy of the project shall not exceed 80%.
3. One hundred forty to 180 parking spaces shall be provided in the project and an additional 12 non-sellable parking spaces shall be reserved for visitors. At no time shall the fully-constructed project have less than a .9 to 1 ratio of all parking spaces on the Property (including the visitor spaces).
4. The project shall include a minimum of approximately 9,186 square feet of gross floor area available for sale as affordable units to households having an income not exceeding 80% of Area Median Income for the Washington, D.C. Metropolitan Statistical Area (adjusted for family size), and consistent with the eligibility requirements and enforcement mechanisms enumerated in the District of Columbia's Department of Housing and Community Development's ("DHCD") guidelines and policies. As under the approval under Z.C. Order No. 05-15, the period of affordability will be twenty years. To the extent that minor modifications are needed in the execution of this program to conform to District or Federal housing programs, the Applicant will work with DHCD or any other relevant government agency to make such changes comply with the same. The



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- unit types and locations shall be as shown on pp. 12 and 13 of Exhibit A to the Applicant's 20 day submission (Exhibit 23) and further described on Exhibit 29 to the record.
5. The Applicant shall be bound by the First Source Employment Agreement it has entered into with the Department of Employment Services.
  6. The Applicant shall enter into a Memorandum of Understanding with the Office of Local Business Development or any agreement having a similar effect as stipulated by any successor entity to the Office of Local Business Development.
  7. The Applicant shall continue to have flexibility with the design of the PUD in the following areas:
    - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, elevators, and toilet rooms, provided that the variations do not change the exterior configuration of the structures;
    - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction without reducing the quality of the materials;
    - c. To make minor modifications to the design of the roof structures and the pergola, in order to lessen the appearance of height and soften the visual effect of the penthouse;
    - d. To make modifications to the façade's brick patterning to further enrich the brick piers;
    - e. To make minor refinements to exterior details and dimensions, including balcony enclosures, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with Construction Codes or that are otherwise necessary to obtain a final building permit; and
    - f. To make alterations to the parking garage design provided that the parking garage contains a minimum number of parking spaces consistent with this Order, which requirement may be satisfied with any combination of compact and full-sized spaces, and conforms to the Zoning Regulations regarding parking garages, such as but not limited to aisle width.
  8. The conditions of Z.C. Order No. 05-15 shall remain in full force and effect unless otherwise modified by this Order.

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9. This PUD shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit for the buildings as specified in 11 DCMR § 2409.1. Construction shall start within three (3) years from the effective date of this Order.
10. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

For the reasons stated above, the Commission concludes that the Applicant has met its burden, it is hereby **ORDERED** that the application be **GRANTED**.

On March 10, 2008, the Zoning Commission **APPROVED** the Application by a vote of: **5-0-0** (Gregory N. Jeffries, Curtis L. Etherly, Jr., Anthony J. Hood, John G. Parsons, and Michael G. Turnbull to approve).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on April 14, 2008, by a vote of: **5-0-0** (Gregory N. Jeffries, Michael G. Turnbull, Anthony J. Hood, Curtis L. Etherly, Jr. and Peter G. May to adopt).

In accordance with the provisions of 11 DCMR Section 3028, this Order shall become final and effective upon publication in the D.C. Register on MAY 16 2008.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 06-08A**

**Z.C. Case No. 06-08A**

**Minor Modification of an Approved Planned Unit Development  
(Square 4325, Parcel 173/145)**

**November 19, 2007**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public meeting on November 19, 2007. At the public meeting, the Commission approved an application from Fort Lincoln/Gateway Village, LLC (the "Applicant") for a minor modification to an approved planned unit development ("PUD") to approve minor modifications to the original PUD application.

**FINDINGS OF FACT**

The original PUD application, Z.C. Case No. 06-08, approved a 357-unit townhouse and townhouse condominium development consisting of three sizes of single-family townhouses (16-foot, 20-foot, and 24-foot-wide models) and "2 over 2" townhouse condominiums on approximately 23 acres of vacant land in Ward 5 and in the Fort Lincoln Urban Renewal Plan Area. The site plan in the original PUD application included a tot lot, a Mews Green, and a central Community Green that consisted of 1.18 acres of open space that is intended for non-organized, passive, and active recreational use. The original PUD application also required that 30 workforce affordable housing units be targeted for sale to District of Columbia Public School ("DCPS") employees. Z.C. Order No. 06-08 became effective on November 23, 2007.

On October 29, 2007, the Applicant filed an application to obtain approval of certain minor modifications to:

- the footprints of the various unit sizes;
- provide the flexibility of a "loft" option in the 16-foot, 20-foot, and 24-foot-wide townhomes;
- provide the flexibility for the interior 24-foot-wide units to have the option of a detached garage, or a larger rear yard and a parking pad instead of the detached garage;
- provide the flexibility for the 20-foot-wide units to have the option to convert the interior parking garage to living space; and
- to increase the maximum height of the 16-foot-wide unit from 43 to 47 feet, to increase the maximum height of the 20-foot-wide unit from 42 to 47 feet, and to increase the maximum height of the 24-foot-wide unit from 40 to 42 feet.

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In addition, the modification application modified the overall site plan to include differing townhome widths in the various strings of townhomes throughout the site. The modification application did not request any change in the approved PUD's amenities package (including the amount of workforce housing), lot configuration, Low-Impact Development ("LID") components, Community Green and Mews Green, tot lot, or the total number of residential units.

On November 9, 2007, the Office of Planning ("OP") submitted a report to the Commission that concluded the proposed modifications to the approved PUD project are not significant and are not inconsistent with the intent of the original application and Zoning Commission approval. OP had no objection to the proposed modifications being processed as a minor modification.

ANC 5A did not take a formal position on the modification application. The ANC 5A Single Member District Commissioner (ANC/SMD 5A12) submitted a letter in support of the modification application.

At the November 19, 2007, public meeting, the Commission voted 4-0-1 to approve the modification application as a minor modification.

### **CONCLUSIONS OF LAW**

The Commission notes that the previous calculation of the gross floor area for each townhome and townhome condominium inadvertently did not include the interior garages. Therefore, the total gross floor area in the original PUD application was 864,550 square feet and density of 0.86 FAR. The Commission notes that if all of the townhome purchasers exercise the option to include lofts, the total square footage of the project will be 820,575 square feet, for a total density of 0.82 FAR. The Commission finds that the proposed increase in height and the inclusion of the lofts within certain units will have no appreciable visual impact on the surrounding properties.

The Commission notes that the reduction in the footprint of these buildings has allowed the amount of green space in the front and/or backyards to increase. Approximately 80% of the additional green space will be added to the front yards of the units and approximately 20% of the additional green space will be provided in the rear yards. The total amount of greenspace on the property has increased from 331,690 square feet (33%) to 399,330 square feet (40%) as a result of the decreased building footprints. The overall average lot occupancy of the project has decreased from 58.64% to 47.31%.

Upon consideration of the record of this application, the Commission concludes that the Applicant's proposed modifications are minor and consistent with the intent of the previous PUD approval made in Z.C. Order No. 06-08. The Commission concludes that the proposed modifications are in the best interest of the District of Columbia and are consistent with the intent and purpose of the Zoning Regulations and Zoning Act. The approval of the modifications

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are not inconsistent with the Comprehensive Plan. The modifications are of such a minor nature that their consideration as a consent calendar item without public hearing is appropriate.

### **DECISION**

In consideration of the above Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of this application for minor modification of the approved PUD project in Z.C. Order No. 06-08. The approval of this minor modification application is subject to the following guidelines, conditions, and standards:

1. The PUD project shall be developed in accordance with the plans and materials submitted by the Applicant and marked as Exhibits 22, 35, and 42 of the record in Z.C. Case No. 06-08, as modified by the plans and materials submitted by the Applicant and marked as Exhibit 1 of Z.C. Case No. 06-08A.
2. The interior 24-foot-wide units will have the option of a detached garage or a larger rear yard and a parking pad. The 20-foot-wide townhome unit purchasers will have the option to convert the interior parking garage to living space.
3. The 16-foot, 20-foot, and 24-foot-wide townhomes will have the option of providing a "loft" option.
4. All other provisions and conditions of Z.C. Order No. 06-08 remain in effect.

Vote of the Zoning Commission taken at its public meeting on November 19, 2007: **4-0-1** (Anthony J. Hood, Michael G. Turnbull, Curtis L. Etherly, Jr., and John G. Parsons to approve; Gregory N. Jeffries, having recused himself, not voting).

In accordance with the provisions of 11 DCMR 3028.29, this Order shall become final and effective upon publication in the *D.C. Register* on MAY 16 2008.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 07-17**

**Z.C. Case No. 07-17**

**(Forest City SEFC, LLC– Southeast Federal Center: Square 744, Lot 806; Square 771, Lot 800; Square 827; and portions of Potomac Avenue, S.E. to be closed)**

**July 26, 2007**

CASE NO. 07-17 (Southeast Federal Center Overlay District Review within Square 744, Lot 806; Square 771, Lot 800; Square 827; and portions of Potomac Avenue, S.E. to be closed) arising from the application from Forest City SEFC, LLC, (the “Applicant”), on behalf of United States of America, General Services Administration, owner of the property.

The Applicant sought the Zoning Commission for the District of Columbia’s (the “Commission”) review and approval pursuant the Southeast Federal Center Overlay District provisions set forth in 11 DCMR § 1808 for four (4) temporary parking lots within the Southeast Federal Center site under §§1803.2(o) and 1804.2(g). At the hearing, the Applicant withdrew one (1) of the four (4) requested temporary parking lots which is located on Lot 800 in Square 771 (also sometimes referred to as “Parcel L”) and amended the application to include only three (3) temporary parking lots.

**HEARING DATE:** July 26, 2007

**DECISION DATE:** July 26, 2007 (Bench Decision)

**SUMMARY ORDER**

**Self-Certified:**

The zoning review requested in this case was self-certified.

The property which is the subject of this application, as amended by the removal of one (1) parking lot on “Parcel L”, consists of approximately 234,702 square feet of land and is located within the Southeast Federal Center (Square 744, Lot 806, Lot 800, Square 827 and portions of Potomac Avenue, S.E. to be closed). The property is generally bounded to the west by 1<sup>st</sup> Street, S.E., to the north by adjacent property and Tingey Street, S.E., to the east by the U.S. Navy Yard, and to the south by adjacent property and Reservation 248. The property is currently vacant and is zoned SEFC/CR, SEFC/R-5-E, and SEFC/R-5-D, all districts in which temporary parking lots are permitted for a maximum period of five (5) years after review and approval by the Commission.

The Applicant proposes to construct three (3) temporary parking lots, each for a maximum period of five (5) years, to be used by the tenants and visitors of office, retail, and residential buildings to be constructed within the Southeast Federal Center by the Applicant, employees, and visitors

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of the Navy Yard and U.S. Department of Transportation, as well as patrons and employees of the new Baseball Stadium upon completion of its construction. The parking lots will be landscaped and illuminated by pole lighting. Vehicular access to the parking lots will be provided from 1<sup>st</sup> Street, New Jersey Avenue, Tingey Street and 4<sup>th</sup> Street, S.E.

The Commission provided proper and timely notice of the public hearing on this application, by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission ("ANC") 6D, the Office of Planning ("OP"), and to owners of property within 200 feet of the site. The site that is the subject of the application is located within the jurisdiction of ANC 6D. ANC 6D did not comment on the application. OP submitted a report and testified at the hearing in support of the application.

As required by 11 DCMR § 1809, the Commission required the Applicant to satisfy the burden of demonstrating conformance to the standards that are necessary to approve the temporary parking lots under § 1808.

No persons or parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Commission to grant this application would not be adverse to any party. Based upon the record before the Commission, having considered the report and testimony OP provided in this case, the Commission concludes that the applicant has met the burden of satisfying the applicable standards under 11 DCMR § 1808, which includes the standards set forth in § 3104 for a special exception, and the specific standards relating to achieving the objectives of the SEFC Overlay District as set forth in § 1802.

Pursuant to 11 DCMR § 3000.8, the Commission has determined to waive the requirement of 11 DCMR § 3028.8 that the Order be accompanied by findings of fact and conclusions of law. The waiver will not affect the rights of any party and is not prohibited by law.

It is, therefore **ORDERED** that this application, as amended, be **GRANTED**.

VOTE:           **4-0-1**           (Gregory N. Jeffries, John G. Parsons, Anthony J. Hood, and Michael G. Turnbull to approve; Carol J. Mitten, not present, not voting).

**BY ORDER OF THE D.C. ZONING COMMISSION**

**Each concurring member approved the issuance of this Order.**

**MAY 16 2008**

**FINAL DATE OF ORDER:** \_\_\_\_\_

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PURSUANT TO 11 DCMS § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE COMMISSION ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS THE D.C. HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., ("ACT"). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE ACT, THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION THAT IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 07-18**

**Z.C. Case No. 07-18**

**Consolidated Planned Unit Development – 1000 F Street, N.W.**

**Jemal's Up Against the Wall, LLC**

**April 14, 2008**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on January 24, 2008 to consider an application from Jemal's Up Against the Wall, LLC (the "Applicant"), for consolidated review and approval of a planned unit development ("PUD"). The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

**FINDINGS OF FACT**

**The Application, Parties, and Hearing**

1. On June 19, 2007, the Applicant filed an application for consolidated review and approval of a PUD for property located at 1000 F Street, N.W., consisting of Lots 18, 19, 818–821, and a small portion of the alley to be closed in Square 347 (the "Subject Property"). The Subject Property is located in the DD/C-4 Zone District at the southwest corner of 10<sup>th</sup> and F Streets, N.W.
2. At its public meeting held on September 10, 2007, the Commission voted to schedule a public hearing on the application.
3. On October 10, 2007, the Applicant submitted a Pre-Hearing Statement, marked as Exhibit 15 of the record in this case. The Pre-Hearing Statement addressed a number of concerns raised by the Office of Planning ("OP") and the Commission at the public meeting on September 10, 2007.
4. On November 27, 2007, the Applicant submitted supplemental information on the proposed project (Exhibits 21 and 22), further refining the original plans. These plans were further amended and supplemented through an addendum dated January 24, 2008, and marked as Exhibit 32.

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5. After proper notice, the Commission held a public hearing on the application on January 24, 2008. The parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 2C, the ANC within which the property is located.
6. The Applicant presented five witnesses at the Commission's hearing of January 24, 2008, including Paul Millstein of Douglas Development, LLC, an affiliate of the Applicant and an expert in real estate development; Shalom Baranes of Shalom Baranes Architects, an expert in architecture and compatible designs in historic districts; Laura Hughes of EHT Traceries, an expert in architectural history and historic preservation; Iain Banks, O.R. George & Associates, an expert in transportation planning and management; and Steven E. Sher, Director of Zoning and Land Use Services, Holland & Knight LLP, an expert in zoning and land planning. Based upon their professional experience, as evidenced by the resumes submitted for the record and prior appearances before the Commission, Messrs. Millstein, Baranes, Banks and Sher, and Ms. Hughes, were qualified by the Commission as experts in their respective fields.
7. Leroy Thorpe of the East Central Civic Association testified in support of the application. Don Hawkins of the Committee of 100 on the Federal City testified in support of the preservation component of the PUD but took no position on the other aspects of the project.
8. Culvert Long, a nearby resident at 506 10th Street, N.W., registered as an opponent to the project. In his testimony, Mr. Long clarified that he was not necessarily opposed to the project, but the negative impacts of construction on his residence and home business. The Applicant met with Mr. Long after the hearing and agreed to work with him to help mitigate any adverse effects of construction.
9. At its public meeting held on February 21, 2008, the Commission took proposed action by a vote of 5-0-0 to approve with conditions the applications and plans that were submitted to the record.
10. The applications were referred to the National Capital Planning Commission ("NCPC") for review of any impacts on the federal interest under the Comprehensive Plan pursuant to § 492 of the District Charter. NCPC, by action dated March 6, 2008, advised "the Zoning Commission that the proposal would be adverse to the federal interest because it does not conform to the requirements of the Height of Buildings Act in two ways: (1) the parapet wall exceeds the maximum allowable height and (2) the roof top penthouse exceeds the allowable height and is not set back from the southern and western exterior walls as required by the Height Act." NCPC recommended "that the Zoning Commission require the applicant to modify the project design to setback both the parapet wall and the penthouse distances from the exterior walls of the building equal to their height above the adjacent roof." The NCPC Action was transmitted to the Zoning Commission by letter dated March 12, 2008.

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11. At its April 14, 2008 meeting, the Commission considered the NCPC report. The Commission voted to approve the application, but did so without taking a position on NCPC's interpretation of the An Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 601.01 to 601.09) ("Height Act"). The Commission noted that it was up to the Zoning Administrator, not the Commission, to interpret the Height Act. While the Commission would be reluctant to approve plans that clearly violated the Height Act, no such clear cut infraction was present. Rather, the question of whether the design feature referred to as a parapet in NCPC's action is in fact a parapet, and whether the southern and western walls are in fact exterior walls that require a setback, are questions best left to the judgment of the Zoning Administrator. Nevertheless, the Zoning Administrator should not view the Commission's approval of this modification as obviating the need for a careful review of these plans for compliance with the Height Act and the Zoning Regulations. The Commission also notes it does not have the authority to require an applicant to revise its plans. The Applicant is clearly aware of NCPC's view and has nevertheless decided to stand on its plans.
12. The Zoning Commission took final action to approve the application on April 14, 2008 by a vote of 5-0-0.

### **The PUD Project**

13. Located in the historic areas known as the Pennsylvania Avenue National Historic Site ("NHS"), the Subject Property is currently improved with several small-scale buildings. The Applicant intends to demolish the buildings deemed "non-contributing" to the historic district, relocate the interior and exterior of the building at 910 10<sup>th</sup> Street, N.W., known as the Waffle Shop, to a more historically appropriate setting, and incorporate the historic corner structure into the PUD project. The new eleven-story office building will contain approximately 97,872 square feet of gross floor area, including 7,813 square feet devoted to retail uses. The new building will have a density of 8.3 FAR and will rise to a maximum height of 120 feet, as measured from F Street. The proposed development will include a below-grade parking garage with approximately 19 zoning-compliant spaces, as well as vault spaces. The office building entrance will be located on F Street and the garage entrance and service area for the building will be accessed from the alley along the west side of the site.
14. The proposed project at 1000 F Street, N.W., is the last corner site to be developed at the intersection of 10<sup>th</sup> and F Streets, N.W., joining the recently completed rehabilitation of the former Woodward and Lothrop Department Store, the construction of Carroll Square and the Atlantic Building. Additionally, the site is within the Downtown Development District of the Zoning Regulations.

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15. The project site is located in Ward 2 and consists of Lots 18, 19, 818, 819, 820, 821, and a portion of an alley to be closed in Square 347. The total land area of the Subject Property is approximately 11,790 square feet. The Subject Property is located in the DD/C-4 District, and is part of the Central Employment Area and the Central Washington Area, as defined on the Generalized Land Use Policies Map. The Future Land Use Map of the Comprehensive Plan designates the Subject Property for high density commercial uses.
16. Large office buildings with a predominant height of 110 to 130 feet are located to the east, west, north, and south of the site. Immediately to the west of the Subject Property across a public alley is a large commercial office and retail building constructed to a height of 130 feet. Across F Street to the north is the former Woodward & Lothrop Department Store building, which is also 130 feet in height. To the northeast of the site is Carroll Square, which rises to a height of 110 feet. Along F Street to the east is the Atlantic Building at 120 feet in height.
17. The DD/C-4 District is designed for the downtown core that comprises the retail and office centers of the District of Columbia. The C-4 District permits a maximum height of 110 feet and a maximum density of 8.5 FAR. The PUD guidelines for the C-4 District increase the allowable density to 10.5 FAR and the height to 130 feet. The 1910 Height Act limits the height of the site to 120 feet, which is derived from the width of F Street increased by twenty feet. The Downtown Development ("DD") Overlay District is designed to create a balanced mixture of uses by means of incentives and requirements for critically important land uses and to guide and regulate office development to further the land use objectives for retail, hotel, residential, entertainment, arts, and cultural uses. In order to protect historic properties from development pressures, the maximum density for certain properties within the DD is limited to 6.0 FAR. Pursuant to § 1707.4(c) of the Zoning Regulations, this limitation applies to the Subject Property.
18. The proposed stepped massing of this project has been designed to create an effective transition between the 130-foot high-rise structures to the west and north of the property along F Street and the low- and mid-rise historic structures along 10<sup>th</sup> Street to the south. To balance the sense of scale between the proposed new construction and the historic buildings, the architectural design includes masonry planes with double-height fenestration wrap metal and glass volumes. Additionally, the two floors located directly behind and above the corner building, are setback along the eastern edge of the property to further balance the sense of scale between the proposed construction and the historic buildings.
19. At the street level, the restored facades of the historic corner building, with its chamfered corner entrance, will mark the primary retail entrance. Additional retail entrances can be accommodated along F and 10<sup>th</sup> Streets in portions of the new construction based on the tenant's needs. A projecting canopy will provide clear identification for the office

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entrance whose location at the northwestern corner of the site will allow for maximum contiguous retail street frontage. New sidewalk paving, curbs, gutters, and street trees will continue the recently completed improvements along F and 10<sup>th</sup> Streets. Brick pavers are proposed along 10<sup>th</sup> Street and concrete pavers along F Street, with granite curbs and brick gutters. Lastly, tree plantings include Chinese Elm trees along F Street and Bloodgood London Planetrees along 10<sup>th</sup> Street.

20. The Applicant entered into an agreement (the "Preservation Agreement") with the D.C. Preservation League, the Committee of 100 on the Federal City, the Art Deco Society of Washington, and the Downtown Artists Coalition (the "Preservation Groups") to preserve the Waffle Shop by dismantling, storing, and reassembling it at another, historically appropriate site. The Preservation Groups filed a landmark application for the Waffle Shop on June 14, 2007, thereby protecting the building under the District's Historic Landmark and Historic District Protection Act. Under the terms of the Preservation Agreement, the Waffle Shop will be relocated to property in Square 450 or 451 owned by an affiliate of the Applicant, or to another historically suitable site in consultation with the Historic Preservation Office and the Preservation Groups.

#### Waivers and Relief Required from Zoning Provisions

21. The Applicant seeks a waiver from the minimum land area requirement of 15,000 square feet for PUDs in the C-4 District. Here, the site is only 11,790 square feet. The Commission may waive not more than 50% of the minimum area requirement provided the development is of exceptional merit and is in the best interest of the city or country. As described herein, the Commission finds the project to be of exceptional merit in that it removes undesirable land uses in the immediate vicinity of the Ford's Theatre NHS, a major tourist attraction of the highest historic merit; enhances the Downtown core of the city; preserves the corner historic building; allows for the relocation of the historic Waffle Shop; and completes the development of the pivotal intersection at 10th and F Streets, N.W. None of this would be accomplished without the PUD. Accordingly, waiver of the minimum area requirements is appropriate.
22. The Applicant also seeks relief from the 6.0 FAR limitation under § 1707.4 in order to construct the PUD to a density of 8.30 FAR. Based on the evidence of record, the Commission finds that the 8.3 FAR is appropriate given the unique circumstances of the Subject Site. First, four of the six lots are deemed noncontributing to the Downtown Historic District and consequently do not need to be protected against development pressures. Second, the historic Waffle Shop, which is the subject of a landmark application, is being protected through relocation to a new site. Finally, the corner building, which is deemed to contribute to the historic district, will be rehabilitated and incorporated into the new development, but will maintain its free-standing, two-story appearance. Thus, the spirit and intent of § 1707.4 is achieved without the need for imposing the more restrictive density limitation. The Commission finds that the

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proposed 8.3 FAR, which is less than the matter-of-right density of 8.5 FAR and well below the 10.5 FAR permitted under the PUD guidelines, is necessary to achieve the exceptional features of the PUD.

23. The Applicant also seeks relief from the following provisions of the Zoning Regulations:

- a. *Roof Structure Setbacks.* The proposed development requires flexibility from the roof structure requirements of § 770.6 to permit a mechanical penthouse along the southern and western exterior walls that does not meet the setback requirements of § 770.6(b). In order to balance the sense of scale between the proposed development and the surrounding historic buildings and to limit the view of the mechanical penthouse from the street, it is necessary to locate the penthouse as far back from the street elevations as possible. The Commission finds that a waiver from the setback requirements of § 770.6 is appropriate and necessary to allow the construction of a mixed-use development that respects the historic character of the Pennsylvania Avenue NHS and is in scale with the surrounding neighborhood.
- b. *Off-Street Parking.* The Applicant also requests flexibility from the off-street parking requirements of § 2101.1 of the Zoning Regulations to allow the Applicant to meet its required provision of off-street parking spaces with 19 zoning-compliant parking spaces. Under § 2101.1 of the Zoning Regulations, the Applicant is required to provide 45 zoning-compliant parking spaces. The proposed development provides 19 zoning-compliant parking spaces, as well as four compact spaces and 38 vault spaces that do not count toward the Applicant's required provision of off-street parking. The Applicant cannot provide any additional zoning-compliant parking spaces because the unique L-shape of the property creates insufficient space for access and driveways within the parking garage. Thus, the Applicant requires flexibility from the off-street parking provisions of the Zoning Regulations to allow the Applicant to meet its off-street parking requirement through the provision of 19 zoning-compliant parking spaces. The Commission finds that a reduction in the number of required parking spaces is reasonable, given the site constraints and the overall total of 61 spaces, which exceed the zoning requirement and will adequately serve the project.
- c. *Off-Street Loading.* The Applicant also seeks flexibility from the off-street loading requirements of Chapter 22. Based on the proposed uses in the building, the Applicant is required to provide one loading berth at 30 feet deep; one platform at 100 square feet, and one service/delivery space at 20 feet deep. The site configuration and programmatic requirements of the project only allow the Applicant to provide one 30-foot loading berth. The Commission finds that the benefits of the project outweigh the strict application of the loading requirements and that the project can function successfully without the loading platform and delivery space.

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- d. *Open Courts.* The Applicant requests flexibility from § 776 of the Zoning Regulations to allow two non-compliant open courts with widths less than the required 12 feet. The Commission finds that these two non-compliant open courts provide subtle architectural details that add to the massing and scale of the proposed development, which are critical to the proposed development's compatibility with the historic structures within the Pennsylvania Avenue NHS and newer developments across 10<sup>th</sup> and F Streets, N.W.

#### **Project Amenities and Public Benefits**

24. The following superior benefits and amenities will be created as a result of the PUD project:
- a. *Urban Design and Architecture.* The PUD provides an appropriate urban design solution for the development of a new office building with ground floor retail located in a historic district. The proposed mixed-use development restores the existing façade of the building located at the corner of 10<sup>th</sup> and F Streets, N.W. The scale, massing, and architectural details of the proposed development are consistent with the structures located in the surrounding area. The historic preservation of the existing façade of the building located at the corner of 10<sup>th</sup> and F Streets, N.W. provides an architectural amenity for the project. The PUD will provide high-quality, superior design features to reinforce the visual identity of the Central Washington Area and the Central Employment Area.
- b. *Site Planning and Efficient and Economical Land Utilization.* The PUD provides an efficient and economical utilization of the existing land area in order to create an exceptional mixed-use project. The site plan has been designed to respect the surrounding historic landmarks, while complementing newer developments in the surrounding neighborhood.
- c. *Transportation Features.* Because the proposed development has convenient access to Metrobus transit services and is in close proximity to the Metro Center Metrorail Station and the Gallery Place – Chinatown Metrorail Station, the proposed development will be considered a Transit Oriented Development with very low vehicular trip generation. The 1000 F Street PUD is also in close proximity to bicycle lanes along 10<sup>th</sup> Street and a signed bicycle route along 13<sup>th</sup> Street. The proposed development also includes an upgrade of the abutting sidewalk which will provide a public benefit for current and future users of the area.
- d. *Historic Preservation.* The Subject Property is located within the Pennsylvania Avenue NHS and is in close proximity to the Ford's Theatre NHS, which is under the jurisdiction of the U.S. National Park Service ("NPS"). The PUD will foster the goals of historic preservation by retaining and rehabilitation of the corner building

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in a manner that respects the surrounding historic resources, consistent with the conceptual design endorsed by the D.C. Historic Preservation Review Board ("HPRB"). The project will also preserve the Waffle Shop at 910 10<sup>th</sup> Street, N.W., for which a landmark application is pending, by carefully dismantling, storing, and reassembling it in a more suitable historic neighborhood, pursuant to an agreement with the city's leading preservation advocacy groups. The Applicant will also enter into a construction management plan with the Ford's Theater NHS representatives to ensure protection of the Petersen House, which is part of the Ford's Theater complex, during construction of the PUD. These preservation components of the project will greatly enhance the Pennsylvania Avenue NHS by improving and protecting the historic setting of Ford's Theatre and the Petersen House, two of the city's most important national landmarks, as well as preserving two locally significant architectural resources.

- e. *Sustainable Design Features.* One of the main benefits of the proposed PUD is its sustainable design features. The Applicant will achieve a minimum of 26 LEED points and will seek LEED Certification for the project. The new building will receive credit for water, energy and atmosphere efficiency, sustainable sites, materials and resources, indoor environment quality, and innovation and design process, among other elements.
- f. *Assistance to Ford's Theatre Society:* The Applicant has made several financial commitments to the Ford's Theatre Society to assist in the continued viability of the organization and Ford's Theatre in general. First, it provided a \$200,000 tenant build-out allowance for space in the nearby Atlantic Building and leased the space to Ford's Theatre for ten years at 50% of market value, a savings of approximately \$200,000 for each year of the lease. The Applicant also provided four apartment units at 910 F Street, N.W., for ten months at 50% of current market rent, for a savings of \$50,000. Finally, the Applicant will provide 4,000 square feet of rehearsal space to the Theatre at mutually agreeable nearby location.
- g. *Affordable Housing.* The Applicant will assist in the creation of adequate, affordable housing for current and future District residents by contributing \$50,000 to the Affordable Housing Production Trust Fund.
- h. *Dedication of an Alley Easement.* The PUD will expand the area of the adjacent public alley from 15 feet to 20 feet in width, and to a height of 16 feet.
- i. *Car-Sharing.* The PUD will provide a car-sharing space on the first level of the garage.
- j. *Employment and Training Opportunities:* In furtherance of the District's policies relating to the creation of employment opportunities, the Applicant will make a



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bona fide effort to utilize local, small, or disadvantaged business enterprises certified by the Department of Small and Local Business Development to achieve, at a minimum, the goal of 35% participation in the contracted development costs in connection with the proposed project. The Applicant will also enter into a First Source Agreement with the Department of Employment Services so that, at a minimum, 51% of the employees hired in connection with the proposed project are District residents.

### **Compliance with the Comprehensive Plan**

25. *Land Use Element (Chapter 3).* The Comprehensive Plan provides that “[b]ecause the Land Use Element integrates the policies and objectives of all the other District Elements, it should be given greater weight than the other elements as competing policies in different elements are balanced.” (10 DCMR § 300.2.) The underlying goal of the Land Use Element is to ensure the efficient use of land resources to meet long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries. (10 DCMR § 302.1.) The proposed project will advance this important goal by complying with a number of the policies set forth in the Land Use Element of the Comprehensive Plan.
- a. *Policy LU-1.1.1: Sustaining a Strong City Center:* The proposed project contemplates the construction of a mixed-use development that will include over 90,000 square feet of gross floor area devoted to office uses and approximate 7,800 square feet of gross floor area devoted to retail uses. This reinvestment in a central city building will provide for the continued vitality of Central Washington as a thriving business and retail center. The entire street frontages of the two-story historic building at the southwest corner of 10<sup>th</sup> and F Streets, N.W., will be retained and rehabilitated. The building will continue to read as a separate structure with no new floors added above the historic resources. This existing historic resource will be carefully integrated into the new building, thus preserving the quality and character of the Pennsylvania Avenue NHS in which the project is located.
- b. *Policy LU-2.1.4: Rehabilitation Before Demolition:* The proposed project retains and rehabilitates the only two historic buildings on the site. First, the corner building which contributes to the character of the Pennsylvania Avenue NHS, will be retained and rehabilitated in situ and continue to read as a free-standing structure while being connected to the new building. The proposed project also includes the rehabilitation and relocation of the Waffle Shop to a more suitable historic setting, in accordance with the Preservation Agreement. The remaining, non-contributing buildings will be replaced with a modern design that complements the surrounding landmarks and

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historic properties redeveloped under the District's historic preservation review process. These historic buildings represent precisely the type of rehabilitation and adaptive reuse encouraged by Policy LU-2.1.4.

26. *Economic Development Element (Chapter 7).* The 1000 F Street PUD furthers the goals and policies of the Economic Development Element of the Comprehensive Plan by providing the District with more office and retail space, increasing the District's tax revenue, and renovating two structures located in one of the District's premiere tourist destinations. The overarching goal of the Economic Development Element is to strengthen the District's economy by sustaining its core industries, attracting new and diverse industries, accommodating future job growth, fostering the success of small business, revitalizing neighborhood commercial centers, improving resident job skills, and helping a greater number of District residents find and keep jobs in the Washington regional economy. (10 DCMR §701.2.) The proposed project will further this important goal by complying with a number of the policies set forth in the Economic Development Element of the Comprehensive Plan.
- a. Policies *ED-2.1.1: Office Growth*, and *ED-2.1.5 Infill and Renovation*: The 1000 F Street PUD, through its renovation of two existing structures, will add 90,059 square feet of office use to the District's current provision of office space. This addition will support growth in numerous service-sector office industries, while simultaneously making more efficient and productive use of the property.
  - b. Policies *ED-2.2.1: Expanding the Retail Sector*, and *ED-2.2.2 Downtown Shopping*: The proposed project offers 7,813 square feet of retail use at street level. This provision of retail space will allow the District to capitalize on the spending power of District residents, workers and visitors. The proposed project contemplates a change in the retail program at street level. Until recently, when the Applicant encouraged their early departure to demonstrate its goodwill in advancing the city's planning goals, a souvenir shop and an unseemly adult bookstore occupied the ground floor of the existing structures. Through its abatement of the inappropriate adult bookstore, the proposed project will help promote Downtown as a regional retail destination of choice for a more inclusive population of patrons. The elimination of the adult bookstore also supports the development of an increasingly robust tourism and convention industry by complementing the Ford's Theatre and the Petersen House with retail use and massing that is appropriate and respectful of the historical significance of these two landmarks.
27. *Historic Preservation (Chapter 10):* The 1000 F Street PUD will advance the goals and policies of the Historic Preservation Element of the Comprehensive Plan by providing a mixed-use development which leverages the historic character of the existing building façade and the Pennsylvania Avenue NHS, while simultaneously offering office and retail uses that are compatible with the demands of today. The overarching goal for

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Historic Preservation Element of the Comprehensive Plan is to preserve and enhance the unique cultural heritage, beauty, and identity of the District of Columbia by respecting the historical form of the city and the enduring value of its historic structures and places, recognizing their importance to the citizens of the District and the nation, and sharing mutual responsibilities for their protection and stewardship. (10 DCMR § 1001.1.) The proposed project will advance this important goal by complying with a number of the policies set forth in the Historic Preservation Element of the Comprehensive Plan.

- a. *Policies HP-2.4.1: Adaptation of Historic Properties for Current Use, HP-2.4.3: Compatible Development:* The proposed development has been designed to respect the important historic features of the Pennsylvania Avenue NHS while incorporating new office and retail uses that are compatible with the historic features of the historic district. The 1000 F Street PUD includes the preservation of the existing building located at the corner of 10<sup>th</sup> and F Streets, N.W. The scale and massing of the 1000 F Street PUD have been designed to be compatible with and complementary to other structures in the Pennsylvania Avenue NHS.
  - b. *Policy HP-3.3.1: Promotion of Historic Preservation:* The Applicant has undertaken significant measures to preserve historically important buildings and structures associated with the property, including the relocation of the Waffle Shop to a more historically suitable location. The rehabilitation of the existing building and the relocation of the Waffle Shop will greatly enhance and convey the unique architectural and historical qualities of these two historic resources, and contribute to the public's understanding of our cultural heritage.
28. *Urban Design Element (Chapter 9):* The proposed project will advance the goals and policies of the Urban Design Element of the Comprehensive Plan. The overarching goal of Urban Design Element of the Comprehensive Plan is to enhance the beauty and livability of the city by protecting its historic design legacy, reinforcing the identity of its neighborhoods, harmoniously integrating new construction with existing buildings and the natural environment, and improving the vitality, appearance, and security of streets and public spaces. (10 DCMR § 901.1.) The proposed project is consistent with the overarching goal of the Urban Design Element and will enhance the beauty of the city by protecting its historic design legacy and harmoniously integrating new construction with existing buildings and the natural environment. The proposed project will also support this goal by complying with two of the policies set forth in the Urban Design Element of the Comprehensive Plan.
- a. *Policy UD-2.1.1: Design Character:* The 1000 F Street PUD has been designed to maintain the positive physical image of the Pennsylvania Avenue NHS and to be complementary in scale and character, thus helping to create a more coherent design character for Central Washington. The 1000 F Street PUD includes the preservation of the existing building located at the corner of 10<sup>th</sup> and F Streets, N.W., which will

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help to secure a strong, positive physical identity. Additionally, the scale and massing of 1000 F Street PUD have been designed to complement and respect the historic landmarks within the Pennsylvania Avenue NHS and other adjacent and nearby structures.

- b. *Policy UD-2.1.4: Architectural Excellence:* The proposed project, through its integration of the existing building with new construction, is an example of excellence in the design of Downtown buildings. The rehabilitation of the existing building façade and the abatement of the adult bookstore will enhance the architectural details of the existing building and will improve the visual image of the building at the street level. The 1000 F Street PUD will also enhance the District's aesthetic qualities in a functionally-efficient manner which incorporates a new mixed-use development that respects the historic character of the Pennsylvania Avenue NHS and is compatible with other structures in the surrounding area.
29. *Central Washington Elements:* In addition to the citywide elements, the Comprehensive Plan includes ten geographically based "area elements." The subject property is located within the Central Washington area. As discussed below, the proposed project is consistent with the objectives and policies of the Central Washington Area Element.
- a. *Policy CW-1.1.2: Central Washington Office Growth:* As noted earlier, the proposed development offers 91,186 square feet of office use within the Central Washington Area. The provision of office space within the 1000 F Street PUD will help the District maintain Central Washington as the premier office location in Greater Washington and meet the challenge of suburban office parks.
  - b. *Policies CW-1.1.6: Capturing Visitor and Employee Spending and CW-1.1.8: Promote Central Washington Retail Develop:* The proposed project offers 7,813 square feet of retail use at street level, which will allow the District to capitalize on the spending power of District residents, workers and visitors. The abatement of the adult bookstore will help promote Downtown as a regional retail destination of choice for a more inclusive population of patrons. The elimination of this unseemly use will also support the development of an increasingly robust tourism and convention industry by complementing the Ford's Theatre and the Petersen House with retail use and massing that is appropriate and respects the historical significance of these two landmarks. Improved retail and a restored building will help capture visitor and employee spending in Central Washington and promote Central Washington as an inviting, regional retail destination.
  - c. *Policy CW-1.2.2: Preservation of Central Washington's Historic Resources:* The proposed project will protect and enhance Central Washington's historic resources by restoring and adaptively reusing a historic and architecturally significant building.

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- d. *Policies CW-2.1.1: Strengthening the Retail Core and CW-2.1.2: Promoting Central Washington Shopping:* The PUD's provision of improved retail and a rehabilitation of a small-scale commercial building will help strengthen the retail core along F Street, N.W., and will promote Central Washington as an inviting, regional retail destination. The elimination of inappropriate uses, the creation of a respectful architectural design and the rehabilitation of the existing building will help market the Central Washington Retail Core as a shopping destination for District residents and employees as well as suburban residents and tourists.
- e. *Policy CW-2.1.5: Pedestrian Movement in the Retail Core Emphasize:* The 1000 F Street PUD encourages pedestrian movement along F Street, N.W., through its provision of appropriate retail use at street level that will draw a wide range of retail patrons, unlike the previous adult bookstore use. The new development and its extensive streetscape improvements will make this section of F Street, N.W., more attractive to a broader base of District residents, workers and visitors. The change in the retail program and the restored building facade will promote and support street-level activity around the proposed project.

### **Office of Planning Report**

- 30. By report dated January 18, 2008, OP recommended approval of the PUD application subject to the Applicant fulfilling the following conditions: (i) designating a specific parking space for use by Flexcar or Zip-Car on the first level of the parking garage; (ii) identifying the specific location and duration of the rehearsal space for Ford's Theatre within either the subject building or at a location within the square in which the theater is located, at a location acceptable to the theater; (iii) submitting drawings detailing the green roof for review by the Commission; (iv) providing the Commission with samples of the proposed façade for review; (v) submitting specific information regarding the trellises; and (vi) obtaining approval from DDOT regarding the provision of vault spaces within the garage. At the hearing, the Applicant submitted supplemental drawings which addressed OP's concerns regarding the location of a car-share space and the green roof, and provided material samples for review by the Commission. The Applicant also clarified that the building features referred to as "trellises" were, in fact, cornices for the building, with glass guardrails required by the building code for the roof deck above.
- 31. By letter dated February 7, 2008, Ford's Theatre submitted a letter to the record indicating that it was working with the Applicant on locating suitable rehearsal space. Based on the Applicant's successful fulfillment of past commitments to Ford's Theatre, the theater advised the Commission that it was unnecessary to specifically identify the space and that it be permitted to work with the Applicant in finding a suitable location. The Applicant has already demonstrated its commitment to this amenity as it has offered space in the nearby Atlantic and Woodward & Lothrop buildings, although the theater ultimately declined those alternatives because they did not meet its needs. Ford's Theatre

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recommended that the Commission allow it the flexibility to continue working with the Applicant to find suitable rehearsal space without making it a condition of the PUD order so that this project can proceed as planned. The Commission concurs with this recommendation.

32. In its post-hearing submission dated February 7, 2008, the Applicant indicated that it had contacted the District Department of Transportation ("DDOT") regarding the vault spaces but had not received a response. The Commission notes that DDOT will need to review and approve the permits necessary to construct the PUD. Consequently, the Commission finds that input from DDOT on this minor issue is not critical to its evaluation of the overall merits of the proposed PUD.

### **DDOT Report**

33. DDOT submitted a memorandum dated September 26, 2007, stating it had no objection to the proposed PUD, provided the Applicant (i) completes an alley closing application; (ii) provides a minimum of one parking space for use by Zip-Car or Flexcar; (iii) redesigns off-street loading to provide a 30-foot deep loading berth; (iv) eliminates the proposed vault parking spaces; and (v) provides a 5-foot-wide setback along the 10-foot-wide public alley.
34. At the hearing, the Applicant indicated that the D.C. Council had approved the alley closing legislation and that enactment was imminent. Additionally, as part of the alley closing process, the Applicant redesigned the loading dock to provide a 30-foot loading berth and agreed to dedicate a five-foot easement along the alley to increase its width to 15 feet. One parking space has also been designated for use by a car-sharing program. With respect to the vault parking spaces, the Applicant reconfigured the garage so that all vault spaces are set back a minimum of ten feet from the face of the curb. Based on these commitments and revisions, the Commission finds that the Applicant has satisfied all of DDOT's conditions.

### **ANC Report**

35. By letter received by the Commission June 13, 2007, and through testimony at the public hearing, ANC 2C advised the Commission of its unanimous support for the PUD project. The Commission affords the views of the ANC the "great weight" to which they are entitled.

### **CONCLUSIONS OF LAW**

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall

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goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare and convenience." (11 DCMR § 2400.2.)

2. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, density, lot occupancy, off-street parking, loading, yards, and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.
3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage the development of well-planned developments which will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter of right development.
4. The PUD project exhibits exception merit by virtue of its urban planning, historic preservation, cultural assistance funds, sustainable design elements, and the PUD project is in the best interest of the city. Accordingly, the Applicant has met its burden of proof to warrant a reduction in the minimum area requirement for a PUD in the C-4 Zone District.
5. The PUD is within the applicable height and bulk standards of the Zoning Regulations, and the increased density will not cause a significant adverse effect on any nearby properties. The project is a continuation of an appropriate use at an appropriate location in the heart of the Central Employment Area and is immediately proximate to mass transit. Accordingly, the project should be approved. The impact of the project on the surrounding area is not unacceptable.
6. The proposed application can be approved with conditions to ensure that the potential adverse effects on the surrounding area from the development will be mitigated.
7. The project benefits and amenities—particularly the urban planning, historic preservation, cultural assistance funds, and sustainable design elements—are a reasonable trade-off for the density provided in the application, particularly given the high-density commercial nature of property in the immediate area.
8. Approval of this PUD is appropriate because the proposed development is consistent with the present character of the area.
9. Approval of this PUD is not inconsistent with the Comprehensive Plan.

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10. The Commission is required under D.C. Official Code § 1-309.10(d)(3) to give great weight to the affected ANC's recommendation. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.
11. The application for a PUD will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.
12. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04) to give great weight to OP's recommendations (as reflected in ¶ 30). The Commission is satisfied that the Applicant has adequately addressed the concerns expressed by OP.
13. Notice of the public hearing was provided in accordance with the Zoning Regulations.
13. The application for a PUD is subject to compliance with D.C. Human Rights Act of 1977 (D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq.).

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for a PUD for the property located at 1000 F Street, N.W. (Lots 18, 19, 818 - 821 and a small portion of the alley to be closed in Square 347). This approval is subject to the following conditions:

1. The PUD shall be developed in accordance with the plans prepared by Shalom Baranes Associates, dated June 11, 2007 (Exhibit 5), and as amended or supplemented by drawings dated November 2007 and January 24, 2008, marked as Exhibits 21 and 22, and 32, respectively, in the record, and as further modified by the guidelines, conditions, and standards herein.
2. The project shall be a commercial office development consisting of approximately 97,872 square feet of gross floor area. The PUD project shall not exceed an overall density of 8.3 FAR and a maximum height of 120 feet, with setbacks as shown on the plans. The Applicant shall demonstrate the ability to achieve 26 LEED points at a minimum. One space on the first level of the garage shall be reserved for a car-sharing service.
3. Landscaping and improvements to public space along the street elevations of the building shall be in accordance with the plans submitted to the record and subject to approval by the Public Space Committee.



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4. Within five years after the effective date of this Order, the Applicant shall relocate and reassemble the Waffle Shop on a new site, consistent with the Preservation Agreement submitted as part of Exhibit 21 to the record.
5. The Applicant shall have flexibility with the design of the PUD in the following areas:
  - a. To vary the location and design of all interior components, partitions, structural slabs, doors, hallways, columns, stairways, atrium and mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not materially change the exterior configuration of the building;
  - b. To make refinements, without reducing the quality of the materials, to exterior materials, details and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments and trim, or any other minor changes to comply with the District of Columbia Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals; and
  - c. To make refinements to the garage configuration, including layout, number of parking spaces, and/or other elements, as long as the number of parking spaces does not decrease below the 19 zoning compliant spaces specified.
6. Prior to issuance of the building permit, the Applicant shall develop a construction management plan with representatives of the U.S. National Park Service for the Ford's Theatre NHS to protect the Petersen House during construction of the PUD.
7. Prior to the issuance of the Certificate of Occupancy for the proposed building, the Applicant shall contribute \$50,000 to the Housing Production Trust Fund.
8. Prior to issuance of the building permit for the PUD project, the Applicant shall enter into a Memorandum of Understanding with the D.C. Department of Small and Local Business Development in order to achieve, at a minimum, the goal of 35% participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance and security for the project to be created as a result of the PUD project.
9. Prior to issuance of the building permit for the PUD project, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least 51% of the jobs created by the PUD project.
10. No building permit shall be issued for this PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, that is satisfactory to the Office of the Attorney General and

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DCRA. Such covenant shall bind the Applicant and all successors in title to construct on and use this property in accordance with this Order or amendment thereof by the Zoning Commission.

11. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three (3) years of the effective date of this Order.
12. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act"). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this

On February 21, 2008, the Zoning Commission **APPROVED** the application by a vote of **5-0-0** (Gregory N. Jeffries, Curtis L. Etherly, Jr., Anthony J. Hood, Peter G. May, and Michael G. Turnbull to approve).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on April 14, 2008, by a vote of **5-0-0** (Anthony J. Hood, Gregory N. Jeffries, Curtis L. Etherly, Jr., Peter G. May, and Michael G. Turnbull to adopt).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on **MAY 16 2008**.

DISTRICT OF COLUMBIA GOVERNMENT

## OFFICE OF THE SURVEYOR

Washington, D.C., November 23, 2005

Plat for Building Permit of SQUARE 347 LOTS 18,19,818-820 &amp; 821

Scale: 1 inch = 20 feet Recorded in Book 10 Page 10 (Lots 18-19)  
Map (Lots 1818-820 & 821)

Receipt No. 24379

Furnished to: FREDA HOBAR

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

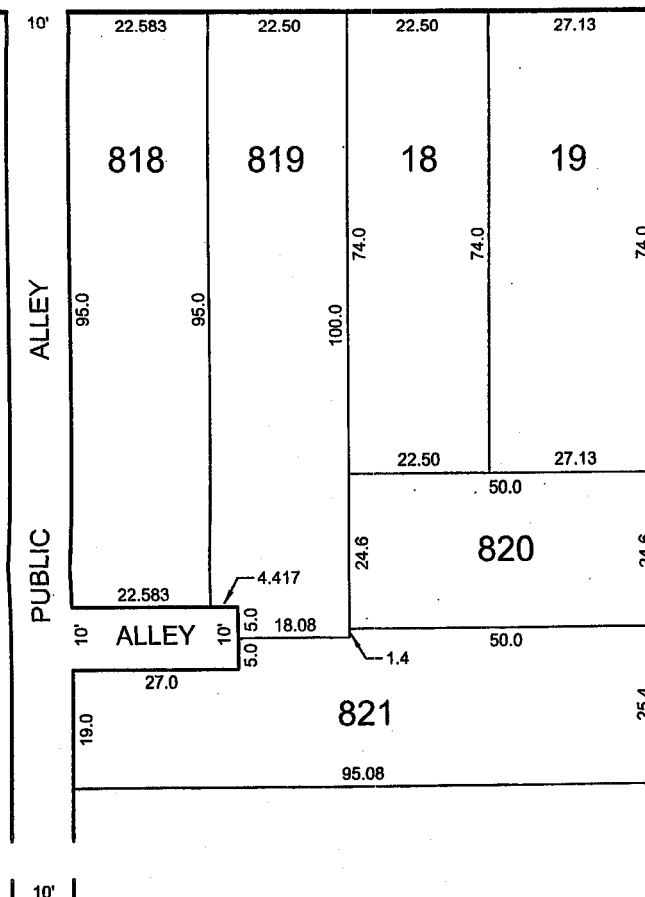
  
Surveyor, D.C.

Date: \_\_\_\_\_

By: L.M.A. \_\_\_\_\_  
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

## F STREET



10TH STREET, N.W.

005872

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****ZONING COMMISSION ORDER NO. 07-29****Z.C. Case No. 07-29****(Bozzuto Development Group – Map Amendment at Square 514, Lot 864)****April 14, 2008**

Pursuant to public notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on February 28, 2008, pursuant to §102 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”), to consider an application from the Bozzuto Development Group (the “Applicant”). The application requested review and approval of an amendment to the Zoning Map of the District of Columbia to change the zoning for a portion of Square 514, Lot 864 (Record Lot 9) (“Property”), from DD/R-5-B to DD/C-2-C, and inclusion within the Downtown Development (“DD”) Overlay Housing Priority Area A. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022.

**FINDINGS OF FACT**

1. On October 19, 2007, the Office of Zoning received an application from the Applicant requesting that the Commission change the zoning of a 42.2-foot portion of Lot 864 (an approximately 4,950-square-foot portion of the 7,983-square-foot lot) in Square 514 from DD/R-5-B to DD/C-2-C and include it within Housing Priority Area A of the Downtown Development Overlay District (“application”).
2. The Applicant filed its pre-hearing submission on December 4, 2007 (Exhibit 13 ) and its 20-day submission on February 8, 2008 (Exhibit 23).
3. The property that is the subject of this application, the western 42.2-foot portion of Square 514, Lot 864 (“Property”), is located on the north side of New York Avenue, N.W. at L Street, N.W. The Property is currently improved with two vacant and deteriorated houses. The Property is located in the Mount Vernon Square neighborhood of Ward 2, the Mount Vernon Square Historic District, and within ANC 2C. The Property is located adjacent to the Yale Laundry Condominium project and north of the City Vista project.
4. The Property is zoned DD/R-5-B.
5. The Property is located directly to the west of Lots 851 and 852, which are zoned DD/C-2-C.

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6. The Applicant has a contract to purchase the Property, along with Lots 851 and 852 in Square 514 (465 and 471 New York Avenue, N.W.). Lot 852 (471 New York Avenue, N.W.) is improved with a two-story rowhouse that has significantly deteriorated. Lot 851 (465 New York Avenue, N.W.) is improved with a three-story brick and limestone house built in 1902 that is also significantly deteriorated.
7. The Commission set the case down for a public hearing at its December 10, 2007 public meeting.
8. Notice of the public hearing was provided in accordance with the provisions of 11 DCMR §§ 3014 and 3015.
9. On February 28, 2008, the Commission held a public hearing on the application. Jeffrey Kaufman, Anne Adams, and Sean Stadler testified on behalf of the Applicant. Ms. Adams was qualified as an expert in the field of architectural history and historic preservation and Mr. Stadler was qualified as an expert in the field of urban architecture by the Commission. Mr. Kaufman discussed the need for the map amendment and desire to be able to use the neighboring smaller lots of 851 and 852 in Square 514 in one unified project plan which, at present, is impossible because the unified property is split-zoned and would not allow any project to be constructed. Ms. Adams was the Applicant's architectural historian and testified that the rezoning would allow redevelopment of the Property that would be consistent with the character of the Mount Vernon Square Historic District and the greater Mount Vernon Triangle neighborhood, historic preservation elements of the Comprehensive Plan, and historic preservation related aspects of the Zoning Regulations and Plan. Mr. Stadler testified that the development allowed by the rezoning would satisfy the standards of an amendment to the Zoning Map in that it would satisfy many of the Comprehensive Plan goals and policies, would be compatible with the surrounding neighborhood, and would be in accordance with the District of Columbia Zone Plan. Two neighbors of the property, Lydia Goring and Jeff Jones, appeared at the Commission's February 28, 2008 public hearing and testified as persons in support of the requested rezoning.
10. Prior to the February 28, 2008 public hearing, the Office of Planning ("OP") submitted a final report recommending approval of the rezoning from DD/R-5-B to DD/C-2-C and the inclusion of the rezoned property in Housing Priority Area A of the DD Overlay District. OP also testified in support of the Applicant's requested map amendment during the Commission's February 28, 2008 public hearing.
11. By memorandum dated February 25, 2008 (Exhibit 25 in the record), the District of Columbia Department of Transportation ("DDOT") stated that it supported the Application.

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12. By letter dated January 22, 2008, the Mount Vernon Square Neighborhood Association ("MVSNA") indicated that, at a duly noticed and regularly scheduled monthly meeting, the MVSNA voted unanimously to support the application. The Applicant also submitted a petition from neighbors in the immediate vicinity that indicated support for the rezoning application.
13. Advisory Neighborhood Commission ("ANC") 2C did not take an official position on the application.
14. Councilmember Jack Evans submitted a letter in support of the request.
15. At the conclusion of the public hearing on February 28, 2008, the Commission took proposed action to approve the map amendment.
16. Pursuant to the District of Columbia Home Rule Act, the Commission referred its proposed decision of approval to the National Capital Planning Commission ("NCPC") for review and comment. By report and letter dated March 27, 2008, NCPC found that the proposed map amendment would not be inconsistent with the Comprehensive Plan for the National Capitol, nor would it have an adverse impact on any other federal interest.
17. The rezoning of the Property would have no adverse effect on neighboring properties, would complement Yale West and the high-density designation of New York Avenue, N.W., would not affect adversely the use of neighboring property, would permit compatible new development and achieve the policies of the DD Overlay District, and would not produce objectionable traffic conditions.
18. Further, the Property is a small and difficult site. It has an odd shape and many constraints on its development. Allowing the rezoning of the Property ensures that the Property and Lots 851 and 852 will be redeveloped.
19. From a historic preservation perspective, the proposed rezoning would allow development that is compatible with the Mount Vernon Square Historic District and it would encourage the relocation and rehabilitation of 465 New York Avenue, N.W.
20. The Commission finds that the proposed map amendment is not inconsistent with the District Elements of the Comprehensive Plan for the National Capital ("Comprehensive Plan") and is fully consistent with the following components of the Comprehensive Plan:
  - a. Land Use Element: The Comprehensive Plan specifies general policies to "ensure the efficient use of land resources to meet long-term neighborhood, citywide, and regional needs; ...to sustain, restore or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District

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boundaries.” (§ 302.1) Further, the Comprehensive Plan favors “infill development on vacant lots ... provided that such development is compatible in scale with its surroundings and consistent with environmental protection and public safety objectives.” (§ 307.2) The current use of the Property is an underutilized lot, and the current zoning scheme maintains a split-zoned site that is difficult to develop. Rezoning the Property will allow for development on a difficult infill site and will allow for the revitalization and re-use of a long abandoned historic building. Rezoning this site will provide the Applicant with an opportunity improve the urban fabric of the community and to provide the neighborhood with physical improvements that make it more attractive.

- b. Housing Element: The Comprehensive Plan includes policies that support the expansion of the housing supply (§ 503.1), particularly through the involvement of the private sector (§ 503.2) on surplus, vacant and underutilized land (§ 503.4) and on Main Street mixed use corridors and near Metrorail stations (§ 503.5). In Near Northwest, the creation of such housing opportunities is viewed as the key to creating “vibrant street life” and supporting the retail and other amenities desired in the heart of the city. (§ 503.7) As a vacant lot in a neighborhood with nearby higher density housing, the Property is underutilized. Rezoning the Property would encourage the Applicant to meet some of the demand for higher density residential development in Near Northwest.
- c. Urban Design Element: The Comprehensive Plan encourages the “use of Washington’s major avenues as a way to reinforce the form and identity of the city, connect its neighborhoods, and improve its aesthetic and visual character” (§ 906.6) and the promotion of excellence in the design of Downtown buildings and landscapes. (§ 909.10) In addition, the Urban Design policies are to be refined by “relating the scale of infill development, alterations, renovations, and additions to existing neighborhood context and overpowering avoiding contrasts in scale and height. (§ 910.14) Rezoning the property would enable a vacant lot to be redeveloped.
- d. Comprehensive Land Use Map: The Comprehensive Plan 2006 Future Land Use Map depicts the area immediately to the east of the Property as Medium Density Residential/Moderate Density Commercial and depicts the Property as Moderate Density Residential. Under the Comprehensive Plan’s Framework Element’s “Guidelines for Using the Generalized Policy Map and the Future Land Use Map,” § 224.24 states that the Land Use Map is “intended to provide generalized guides for development and conservation decisions” but that it is “not a zoning map.” Section 224.24 states that “the Map is to be interpreted broadly” and that the Land Use Map is “not intended to freeze future development patterns for the next 20 years.” The satisfaction of the provisions of the Comprehensive Plan’s elements combined with the fact that the Property is immediately adjacent to an area of Moderate Density Commercial and Medium Density Residential land (corresponding to the high-density Yale Laundry site), demonstrates that the proposed rezoning is not inconsistent with the Comprehensive Plan. The

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proposed rezoning of the Property to DD/C-2-C and DD/R-5-B Zoning Districts is more appropriate than the status quo given the site's location on a major commercial corridor and adjacent to high density DD/C-2-C development to the east and south across New York Avenue, N.W. As evidenced by OP's setdown report, OP agrees that the requested rezoning is not inconsistent with the Comprehensive Plan.

21. The Property is located on the high-density (largely DD/C-2-C) New York Avenue corridor. The Property is a buffer between the two distinct elements of the Mount Vernon Square neighborhood – the high-density on New York Avenue corridor and the lower-scale residential of the Mount Vernon Square Historic District. Rezoning the Property DD/C-2-C is in keeping with the character of the southern half of the square and the alley provides a dividing line between the residential uses to the north and the mixed uses to the south.
22. Since the Subject Property fronts on New York Avenue, N.W., the rezoning would allow for a transition between the high-density commercial corridor and the more residential area of the Mount Vernon Square Historic District.
23. The Applicant provided testimony that immediately abutting the Property is the extensive Yale Laundry condominium project that will reach 130 feet for much of its New York Avenue street frontage. Immediately across New York Avenue, N.W., 130-foot buildings will be constructed and the substantial City Vista project is already nearing completion.

### **CONCLUSIONS OF LAW**

The Zoning Commission's authority to amend the Zoning Map derives from the Zoning Act of 1938, effective June 20, 1938 (52 Stat. 797, D.C. Official Code § 6-641.01) ("Zoning Act"). Section 1 of the Zoning Act authorizes the Commission to regulate the uses of property in order to "promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital." (D.C. Official Code § 6-641.01.) Section 2 of the Zoning Act provides that the "zoning regulations shall be designed to lessen congestion on the street, to secure safety from fire, panic, and other dangers to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein." (D.C. Official Code



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§ 6-641.02.) Section 3 of the Zoning Act, among other things, authorizes the Commission to amend the zoning regulations and maps. (D.C. Official Code § 6-641.03.)

The Commission concludes that approval of the requested map amendment is consistent with the purposes of the Zoning Act. Rezoning the Property to the DD/C-2-C Zone District and including it in Housing Priority Area A, is appropriate given the site's location on a major commercial corridor and adjacent to high-density DD/C-2-C development to the east and south across New York Avenue, N.W. As a vacant lot in a neighborhood with nearby higher-density housing, the Property is underutilized, and the current zoning scheme maintains a split-zoned site that is difficult to develop. Rezoning the Property will allow for development on a difficult infill site, encourage higher-density residential development in Near Northwest on one of the District's major gateway avenues. In addition, rezoning will allow for an appropriate transition from higher-density mixed-uses on New York Avenue to lower-density uses in the Mount Vernon Historic District.

In amending the zoning maps, the Commission is constrained by the limitation in the District Charter that the zoning map be "not inconsistent" with the Comprehensive Plan. § 492(b)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, effective December 24, 1973 (Pub.L.No. 93-198; 87 Stat. 774; D.C. Official Code § 6-641.02).

The Commission concludes that approval of the requested map amendment is not inconsistent with the Comprehensive Plan. The requested map amendment furthers the

goals of the Comprehensive Plan, and promotes orderly development in conformity with the Zone Plan as embodied in the Zoning Regulations and Map.

The Commission concludes that the requested map amendment is in the best interests of the District of Columbia and will benefit the community in which the Property is located.

The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) to give great weight to the affected ANC's recommendation. ANC 2C did not make a recommendation in this case.

The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give great weight to OP recommendations. The Commission concurs with OP's recommendation for approval, and has given its recommendation the great weight to which it is entitled.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia hereby **ORDERS APPROVAL** of the application for an amendment of the Zoning Map to change the zoning of a portion of Lot 864 (Record Lot 9) in Square 514 from DD/R-5-B to DD/C-2-C and that portion of Lot 864 is hereby

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placed in Housing Priority Area A of the DD Overlay District (as described in § 1706.8(a) of the Zoning Regulations).

The applicant is required to comply fully with the provisions of the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq., ("Act"). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

At the conclusion of the public hearing on February 28, 2008, the Zoning Commission voted to **APPROVE** the application by a vote of **5-0-0** (Gregory N. Jeffries, Curtis L. Etherly, Jr., Anthony J. Hood, Michael G. Turnbull, and Peter G. May to approve).

The Order was **ADOPTED** by the Zoning Commission at its public meeting on April 14, 2008, by a vote of **5-0-0** to adopt ( Anthony J. Hood, Peter G. May, Gregory N. Jeffries, Curtis L. Etherly, Jr., and Michael G. Turnbull).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register* on **MAY 16 2008**.

DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR

Washington, D.C., October 3, 2007

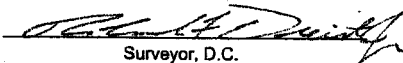
Plat for Building Permit of: SQUARE 514 LOTS 851, 852 &amp; 864

Scale: 1 inch = 20 feet    Book A&T Page 3185-H (LOTS 851 & 852)  
Book A&T Page 3772-G (LOT 864)

Receipt No. 00444

Furnished to: PWSP

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

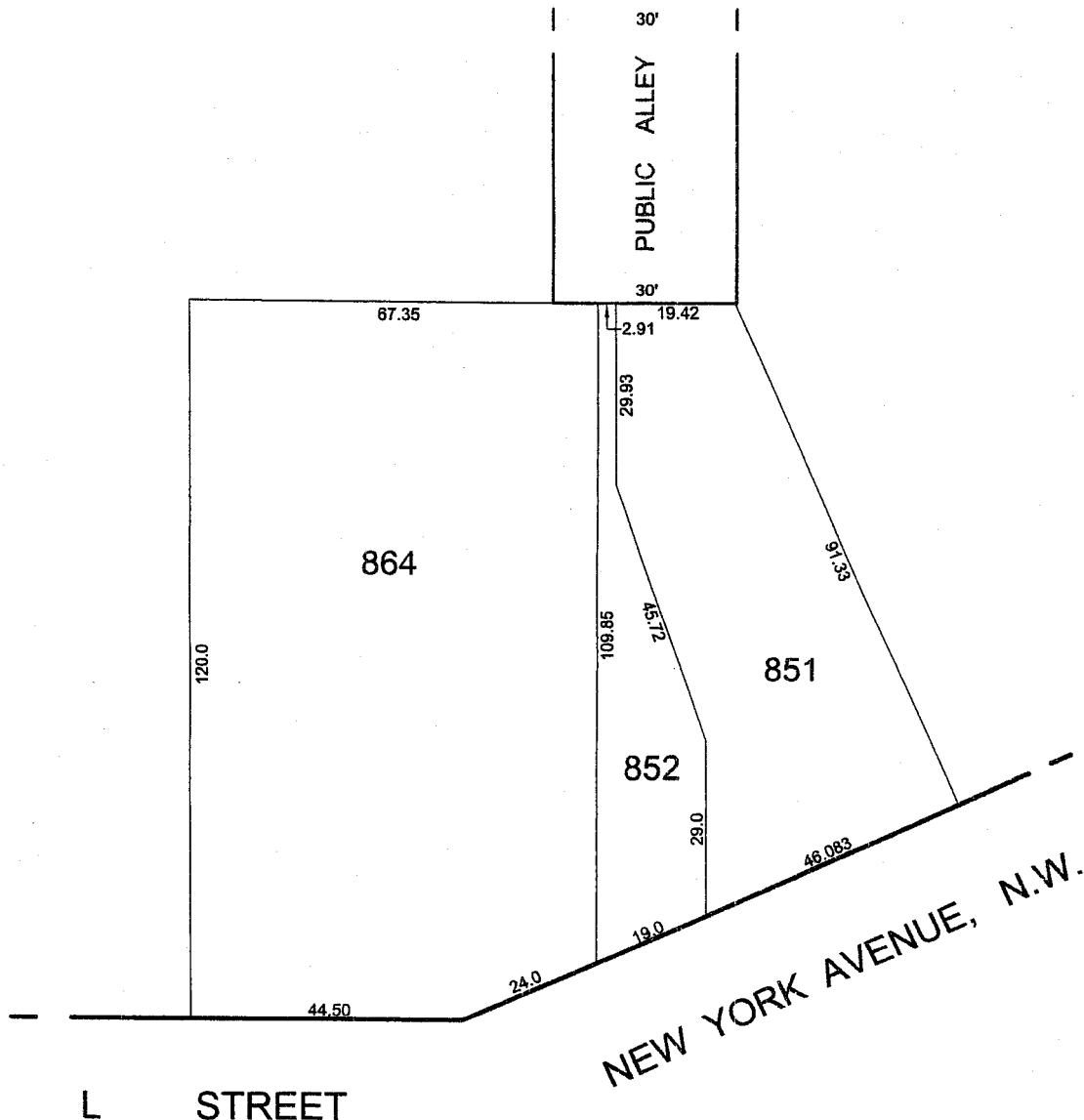
  
Surveyor, D.C.

Date: \_\_\_\_\_

By: L.M.A. 

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



**OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES  
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**DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS (DCMR)**

| <b>TITLE</b> | <b>SUBJECT</b>                                                                                      | <b>PRICE</b> |
|--------------|-----------------------------------------------------------------------------------------------------|--------------|
| 1            | DCMR MAYOR AND EXECUTIVE AGENCIES (JUNE 2001) .....                                                 | \$16.00      |
| 3            | DCMR ELECTIONS & ETHICS (MARCH 2007) .....                                                          | \$20.00      |
| 4            | DCMR HUMAN RIGHTS (MARCH 1995).....                                                                 | \$13.00      |
| 5            | DCMR BOARD OF EDUCATION (DECEMBER 2002).....                                                        | \$26.00      |
| 6A           | DCMR POLICE PERSONNEL (JUNE 2007).....                                                              | \$8.00       |
| 7            | DCMR EMPLOYMENT BENEFITS (JANUARY 1986).....                                                        | \$8.00       |
| 8            | DCMR UNIVERSITY OF THE DISTRICT OF COLUMBIA (JUNE 1988).....                                        | \$8.00       |
| 9            | DCMR TAXATION & ASSESSMENTS (APRIL 1998).....                                                       | \$20.00      |
| 10           | DCMR DISTRICT'S COMPREHENSIVE PLAN (PART 1, OCTOBER 2007) .....                                     | \$70.00      |
|              | + \$10.00 for postage                                                                               |              |
| 10           | DCMR PLANNING & DEVELOPMENT (PART 2, MARCH 1994)<br>w/1996 SUPPLEMENT* .....                        | \$26.00      |
| 11           | DCMR ZONING (FEBRUARY 2003) .....                                                                   | \$35.00      |
| 12           | DCMR CONSTRUCTION CODES SUPPLEMENT (MARCH 2007).....                                                | \$25.00      |
| 13B          | DCMR BOILER & PRESSURE VESSEL CODE (MAY 1984).....                                                  | \$7.00       |
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| 17           | DCMR BUSINESS, OCCUPATIONS & PROFESSIONS (MAY 1990) .....                                           | \$26.00      |
| 18           | DCMR VEHICLES & TRAFFIC (APRIL 1995) w/1997 SUPPLEMENT* .....                                       | \$26.00      |
| 19           | DCMR AMUSEMENTS, PARKS & RECREATION (JUNE 2001) .....                                               | \$26.00      |
| 20           | DCMR ENVIRONMENT - CHAPTERS 1-39 (FEBRUARY 1997) .....                                              | \$20.00      |
| 20           | DCMR ENVIRONMENT - CHAPTERS 40-70 (FEBRUARY 1997) .....                                             | \$26.00      |
| 21           | DCMR WATER & SANITATION (FEBRUARY 1998).....                                                        | \$20.00      |
| 22           | DCMR PUBLIC HEALTH & MEDICINE (AUGUST 1986).....                                                    | \$26.00      |
| 22           | DCMR HEALTH CARE & COMMUNITY RESIDENCE FACILITIES<br>SUPPLEMENT (AUGUST 1986 - FEBRUARY 1995) ..... | \$13.00      |
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| 27           | DCMR CONTRACTS AND PROCUREMENT (JULY 1988).....                                                     | \$22.00      |
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| 29           | DCMR PUBLIC WELFARE (MAY 1987) .....                                                                | \$8.00       |
| 30           | DCMR LOTTERY AND CHARITABLE GAMES (MARCH 1997) .....                                                | \$20.00      |
| 31           | DCMR TAXICABS & PUBLIC VEHICLES FOR HIRE (JULY 2004) .....                                          | \$16.00      |

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